

**State of California
Department of Consumer Affairs**

**Laws and Regulations
Relating to the
Practice of Structural
Pest Control**

Current as of: November 19, 2005

BUSINESS AND PROFESSIONS CODE, DIVISION 3

Chapter 14. Structural Pest Control Operators

Article 1. General Provisions

8500. Unless the text otherwise requires, the general provisions hereinafter set forth govern the construction of this chapter.

8501. "Director" refers to the Director of Consumer Affairs.

8502. "Board" refers to the Structural Pest Control Board.

8503. "Registrar" refers to the registrar of the Structural Pest Control Board.

8503.5. "Committee" means the Disciplinary Review Committee established pursuant to Section 8660.

8504. "Person" includes an individual, firm, partnership, corporation, limited liability company, association or other organization or any combination thereof.

8505. "Structural pest control" and "pest control" as used in this chapter are synonymous. Except as provided in Section 8555 and elsewhere in this chapter, it is, with respect to household pests and wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following: identification of infestations or infections; the making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms; the making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to such infestations or infections; and the making of contracts, or the submitting of bids for, or the performance of any work including the making of structural repairs or replacements, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances, or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of such pests, or organisms.

"Household pests" are defined for the purpose of this chapter as those pests other than wood destroying pests or organisms, which invade households and other structures, including, but not limited to, rodents, vermin and insects.

8505.1. (a) Except as provided in subdivisions (b) and (c), for the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade when the substance is labeled for those purposes.

The following is a list of lethal fumigants:

- (1) Methyl bromide.
- (2) Sulfur dioxide.
- (3) Propylene oxide.
- (4) Sulfuryl fluoride.
- (5) Aluminum phosphide.

The board may adopt, and may as necessary amend, by regulation, a list of fumigants.

(b) For the purpose of this act, "warning agent" shall be any agent used in combination with any fumigant that lacks warning properties.

The following is a warning agent:

Chloropicrin.

The board may adopt, and may as necessary amend, by regulation, a list of warning agents.

(c) For the purpose of this act "simple asphyxiants" shall not be deemed to be fumigants.

The following is a list of simple asphyxiants:

- (1) Liquid nitrogen.
- (2) Carbon dioxide.

The board may adopt, and may as necessary amend, by regulation, a list of simple asphyxiants.

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in a branch of pest control which includes fumigation or who is the qualifying manager of a registered company which is so registered.

8505.3. "Direct and personal supervision" as used in Section 8505.2 means that the licensee exercising such supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

8505.4. Fumigation shall be performed in compliance with all applicable state, county, city, and city and county laws and ordinances and all applicable laws and regulations of the United States.

8505.5. Notice of the date and place of fumigation, and chemicals to be used, shall be given by the fumigator to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge any fees for any service related to structural pest control activities except for the costs of an emergency response necessitated by illegal or negligent actions.

If requested by the county agricultural commissioner, notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the notice which may be requested by the commissioner.

8505.6. During the process of fumigation the room or apartment being fumigated, together with all rooms and apartments, including rooms or apartments on the same floor and those above, below, and adjacent thereto, shall be vacated by the occupants thereof. During the process of such fumigation, all rooms, apartments, and hallways adjacent to the rooms, apartments or spaces undergoing fumigation, shall be kept well ventilated and warning signs as herein prescribed stating such fact of fumigation shall be kept posted at all entries to such rooms or apartments during the time of such fumigation and thereafter until all such premises are safely ventilated free of all fumes. All rooming or apartment houses designed for the use of four families or less shall be entirely vacated and closed against entry thereto and occupancy thereof while fumigation is being performed therein and until the same is safely ventilated free of all fumes.

8505.7. The space to be fumigated shall be vacated by all occupants prior to the commencement of fumigation, and all entrances thereto shall be locked, barricaded, or otherwise secured against entry until the end of exposure period, then opened for ventilation and relocked, barricaded, or otherwise secured against re-entry, until declared by the licensee exercising direct and personal supervision over the fumigation to be safe for reoccupancy.

8505.8. Prior to the commencement of fumigation, the space to be fumigated shall be sealed in such manner that tests taken before ventilation is begun will show that the required concentration of the fumigant released within the space has been retained therein, in compliance with the manufacturer's recommendations.

8505.9. Prior to the commencement of fumigation, warning signs shall be posted in plainly visible locations on or in the immediate vicinity of all entrances to the space under fumigation and shall not be removed until fumigation and ventilation has been completed, and the premises safe for reoccupancy. Ventilation shall be conducted with due regard for the public safety.

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER-- FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant, the date and time fumigant was injected, and the name, address and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

8505.11. If the structure which has been fumigated has an attic or if the area underneath such structure is accessible to inspection for purposes of structural pest control, the registered company which performed the fumigation shall, immediately upon completion, post in the attic, immediately adjacent to the entrance thereto, or in the area underneath the structure, immediately adjacent to the main entrance vent thereof, or in both of such places if the structure has an attic and an accessible underarea, a durable sign not less than five inches by seven inches in size stating the name of the registered company, the date of fumigation, and the type of fumigant used.

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack such properties.

When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take such safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

8505.13. A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least three years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.

8505.14. "Fumigator" means any individual licensed by the board as a structural pest control operator or as a structural pest control field representative in the branch of pest control which includes fumigation as set forth in Section 8560.

8505.15. Two effective masks of a type approved by the National Institute of Occupational Safety and Health for protection against the fumigant being used shall be made readily available by the registered company to a fumigating crew whenever a fumigant is introduced into or removed from a structure.

8505.16. All fumigators shall be familiar with and able to administer artificial respiration by the best method or methods recommended currently by the Red Cross in its standard texts on first aid.

All fumigating crews shall be outfitted with a safety kit containing safety equipment as specified by the manufacturer's label instructions and by all applicable laws and regulations.

8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide, the amount used, and the number of applications made. The report shall be submitted to the commissioner by the 10th day of the month following the month of application. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. No pesticide use stamp is required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

8506. (a) "Structural pest control operator" is any individual licensed by the board to practice structural pest control.

(b) As used in this chapter, "operator" refers to "structural pest control operator."

(c) In the event of death of a licensee, the executor or administrator of the deceased person may obtain from the board written authorization for such executor or administrator to conduct the business of such deceased licensee for a period not to exceed one year after the date of death for the purpose of winding up or disposing of the structural pest control business of the deceased licensee; but such authorization shall not entitle such executor or administrator to solicit, engage in, or undertake any structural pest control work not already contracted for by such deceased licensee unless a properly classified and licensed operator is employed to manage, supervise, and direct the business.

8506.1. A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof which is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may hire licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering wood-destroying organisms only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.

8506.2. A "qualifying manager" is the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be available to supervise and assist the company's employees.

8507. (a) "Structural pest control field representative" is any individual who is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, submit bids for or otherwise contract, in behalf of a registered company.

A pest control field representative shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "field representative" refers to "structural pest control field representative."

8507.1. (a) "Structural pest control applicator" is any individual who is licensed by the board to apply a pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests or organisms included in Branch 2 or Branch 3 on behalf of a registered company.

A structural pest control applicator shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "applicator" refers to "structural pest control applicator."

8508. "Household" means any structure and its contents which are used for man and his convenience.

8509. "Branch office" is any fixed place of business in addition to the location of business for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

8510. For purposes of this chapter, "wood preservative" means any coating formulated to protect wood surfaces from deterioration caused by insects, fungus, rot, and decay and which contains a wood preservative chemical that is registered with the California Department of Food and Agriculture and the United States Environmental Protection Agency.

8511. "Manufacturer" is a person engaged in the processing of materials used in the practice of pest control, but who does not himself engage in such practice.

8512. "Employer" refers to a registered company which hires operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field representative.

8513. (a) The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the

rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

(e) Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a Branch 1 or Branch 3 registration.

(g) A violation of the provisions of this section is a ground for disciplinary action.

8514. No registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

Notwithstanding any provision of this chapter, after an inspection has been made a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise

applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize any registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified or registered to perform, pest control work in any branch, or by any method, for which it is not registered.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, any act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for any act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

8514.5. It is unlawful for any registered company under this chapter when billing for any subcontracted work authorized under Section 8514, to charge, bill, or otherwise solicit payment from the consumer for any structural fumigation work not actually rendered by the registered company or under its direct supervision unless the consumer, prior to authorizing the performance of the work, is provided in writing with the following statement:

"NOTICE: The charge for service that this company subcontracts to another registered company may include the company's charges for arranging and administering such services that are in addition to the direct costs associated with paying the subcontractor. You may accept (company name's) bid or you may contract directly with another registered company licensed to perform the work.

If you choose to contract directly with another registered company, (company name) will not in any way be responsible for any act or omission in the performance of work that you directly contract with another to perform."

8515. Nothing in this chapter shall prohibit a company registered hereunder from authorizing an officer, partner, or employee to submit bids, after an inspection by an individual licensed as an operator or field representative under this act, or to sign contracts after negotiation by an individual licensed as an operator or field representative under this act, on behalf of the registered company.

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensed field representative or operator making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type: "NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company."

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

- (1) The infestation or infection that is evident.
- (2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years

from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

8516.5. Any registered company that makes an inspection of any property relating to the absence or presence of wood destroying pests or organisms on such property and makes a report of such inspection shall furnish a copy of the report either to the owner of the property or to the agent of the owner, within 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be furnished.

8517. Any work contract, billing, agreement, letter of work completed, or other correspondence or document expressing an opinion or making a statement relating to the presence or absence of wood destroying pests or organisms or nondecay fungi, shall refer to the inspection report required by Section 8516. These documents shall indicate specifically whether all of the recommended work as set forth in the inspection report was completed, or, if not, the document shall indicate specifically which recommendations were not completed.

8518. When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 working days after completed work.

Every property upon which work is completed shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

8519. Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

(a) When the inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that the above property was inspected on ____ (date) in accordance with the Structural Pest Control Act and rules and regulations adopted pursuant thereto, and that no evidence of active infestation or infection was found in the visible and accessible areas."

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas."

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: ____ (describing infestations, infections, damage or evidence thereof, excepted)."

This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the certification may be endorsed on and made a part of that inspection report or notice of work completed.

8519.5. (a) After an inspection report has been prepared by a Branch 3 registered company pursuant to Section 8516, which discloses a wood destroying pest that can be eradicated by fumigation, and the fumigation has been duly performed by a Branch 1 registered company, the Branch 1 registered company, on a company document that identifies the licensee performing the fumigation and the name and address of the registered company, shall issue the following certification: "This is to certify that the property located at ____ (address) was fumigated on ____ (date) for the extermination of ____ (target pest)." This certification shall be issued to the person ordering the fumigation and to the registered company that prepared the inspection report within five working days after completing the fumigation.

(1) Where a consumer has authorized a Branch 3 registered company to subcontract the fumigation to a Branch 1 registered company, a copy of the certification shall accompany any reinspection report, notice of work completed pursuant to Section 8518, or any certification issued by the Branch 3 company.

(2) Where the consumer has elected to contract directly with a Branch 1 registered company to perform a fumigation, the distribution of any documents pertinent to the fumigation shall be the responsibility of the Branch 1 registered company.

(b) In the event of a failed fumigation performed by a Branch 1 registered company that has contracted directly with the consumer, the Branch 1 registered company shall do all of the following:

(1) Verify the need for a refumigation.

(2) Maintain with the original inspection report, on a company document, all of the following:

(A) The name of the current owner of the structure fumigated, the address of the structure, and the date of the failed fumigation.

(B) An explanation of the need for refumigation.

(C) The proposed date for the refumigation.

(3) Within five working days after the completion of the refumigation, the Branch 1 registered company, on a company document, shall file with the current owner, and the Branch 3 registered company whose report was used for the original fumigation, information regarding the completion of the refumigation, a new certification, and any warranty or guarantee.

Article 2. Administration

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

8520.1. Protection of the public shall be the highest priority for the Structural Pest Control Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

8521. The board is composed of seven members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators licensed under this chapter actively engaged in the business of pest control and who are residents of this state, and four public members who shall not be licentiates of the board.

8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

Vacancies shall be filled by the appointing power for the unexpired term.

Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the member who is a licentiate of the board provided at the 1983 portion of the 1983-84 Regular Session of the Legislature on or before January 15, 1984, and that member's term shall expire on January 15, 1988. Each appointment thereafter shall be for a four-year term expiring on January 15th.

8523. The board shall organize and elect a president who shall serve for one year.

The board shall meet annually during the month of October.

Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.

8524. Four members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any power or authority of the board.

A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board providing the members remaining constitute a quorum.

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Director of Food and Agriculture when developing or adopting regulations that may affect the Department of Food and Agriculture or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

8526. Each member of the board shall receive a per diem and expenses as provided in Section 103.

8527. The board shall adopt and use a seal. The seal shall have the words "Structural Pest Control Board, State of California," and such other devices as the board may desire, engrossed thereon. The registrar shall have the care and custody of the seal.

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

8529. The registrar, with the approval of the board and of the director, and subject to the State Civil Service Act, may appoint and fix the compensation of such other assistants as may be necessary.

8530. The board, with the approval of the director, may establish the main office of the board, and branch offices of the board in any city of this State.

8531. The registrar shall keep a complete record of the board's actions, and shall maintain at the office of the board a complete index record of all applications for licenses and registrations issued, licenses renewed, and all revocations, cancellations, and suspensions of licenses and registrations.

8531.5. The board shall prepare minutes of its annual meeting and any special meetings, which shall be permanently maintained at the office of the registrar.

8532. Copies of all records and papers in the office of the board, certified by the registrar under the seal of the board shall be received in evidence in all courts of this State in all cases equally and with like effect as the originals of such papers and records.

8533. Whenever funds are available for the purpose, the registrar, at the discretion of the board, may publish, or cause to be published, a roster of the individuals licensed and companies registered under the provisions of this chapter. A copy of such roster may be furnished to registered companies and such state agencies as the registrar may select, at such intervals as he or she deems necessary. Copies of the roster may be sold at a price fixed by the board.

8534. Whenever funds are available for the purpose, the registrar, at the direction of the board, may publish and disseminate to individuals licensed and companies registered under this chapter and to public officials and other persons interested in the practice of pest control, such information relative to the administration and enforcement of this chapter as the board deems necessary to carry out its purposes.

8535. The registrar, and any member of the board, may administer oaths for the purpose of administering this chapter.

8536. No manufacturer, his agents or employees, nor any person who is a consultant of or connected with any manufacturer, shall be charged with the enforcement or execution of any of the provisions of this chapter.

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION-- PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center

(telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions--the County Health Department (telephone number); for Application Information--the County Agricultural Commissioner (telephone number) and for Regulatory Information--the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

- (1) First-class mail.
- (2) Posting in a conspicuous place on the real property.
- (3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

Article 3. Application of the Chapter

8550. (a) It is unlawful for any individual to engage or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

(b) Notwithstanding subdivision (a), an unlicensed individual may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

(c) It is unlawful for an unlicensed individual, soliciting pest control work on behalf of a registered structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

(d) It is also unlawful for any unlicensed individual to offer any opinion, or to make any recommendations, concerning the need for structural pest control work in general, or in connection with a particular structure.

(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

8551. It is unlawful for any unlicensed person to perform fumigation with dangerous or lethal fumigating chemicals in any public structure, including rooming houses, or households when used as public structures, hotels, apartment houses, or any part thereof.

8551.5. No unlicensed individual in the employ of a registered company shall apply any pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3. However, an individual may, for 30 days from the date of hire, apply pesticides, rodenticides, or allied chemicals for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30-day time period may not be extended.

8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a company registered under this chapter.

8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

8554. No individual engaged in the business or acting in the capacity of an operator may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that he or she was a duly licensed operator at all times during the performance of such act or contract.

No firm, partnership, corporation, association or other organization or combination thereof engaged in the practice of structural pest control may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that it was a duly registered company at all times during the performance of the act or contract.

Nothing herein shall prohibit the bringing or maintaining an action for the collection of compensation in the event of a suspension or revocation of a license or company registration by the board, if the order of suspension or revocation authorized the performance of the act or work, compensation for which the action is brought or maintained.

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. A professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

(g) Persons engaged in the live capture and removal or exclusion of vertebrate pests, bees, or wasps from a structure without the use of pesticides, provided those persons maintain insurance coverage as described in Section 8692. "Vertebrate pests" include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

8556. (a) Licensed contractors acting in their capacity as such, may remove and replace any structure or portions of a structure damaged by wood destroying pests or organisms if that work is incidental to other work being performed on the structure involved or if that work has been identified by a structural pest control inspection report. Licensed contractors acting in their capacity as such may apply wood preservatives directly to end cuts and drill holes of pressure treated wood, and to foundation wood as required by building codes, as well as to fencing and decking, by brush, dip, or spray method and need not obtain a license under this chapter for performance of that work, provided a disclosure in the following form is submitted to the customer in writing: "The application of a wood preservative is intended to prevent the establishment and flourishing of organisms which can deteriorate wood. If you suspect pest infestation or infection, contact a registered structural pest control company prior to the application of a wood preservative."

These exemptions do not authorize the performance of any other acts defined in Section 8505.

(b) A licensed contractor may contract for the performance of any soil treatment pest control work to eliminate, exterminate, control, or prevent infestations or infections of pests or organisms in the ground beneath or adjacent to any existing building or structure or in or upon any site upon which any building or structure is to be constructed, but the actual performance of any such work must be done by a registered structural pest control company.

Article 4. Issuance of Licenses

8560. (a) Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination.

For the purpose of delimiting the type and character of work authorized by the various branch licenses, the practice of pest control is classified into the following branches:

Branch 1. Fumigation. The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.

Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.

Branch 3. Termite. The practice relating to the control of wood-destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

(b) The board may issue a license for a combination of two or more branches for which an applicant qualifies under the provisions of this chapter, and the combination license shall be considered one license.

(c) Unless otherwise authorized by the board, all written examinations shall be in ink in books supplied by the board. All examination papers shall be kept for a period of one year, upon the expiration of which these papers may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examination papers are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants for license.

(d) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(e) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. No failure of the licensee to pass examination in the other branch or branches shall have any effect on existing licenses.

(f) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

8561. Any individual 18 years of age or over may apply for a license as an operator.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. The applicant shall apply to the board for the issuance of an operator's license within one year of passing the examination.

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

- (a) The name of the applicant.
- (b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

- (c) A designation of the branch or branches for which the application is made.
- (d) The fees prescribed by this chapter.
- (e) No operator's license shall be issued to an individual under 18 years of age.
- (f) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

8563. Any individual 18 years of age or over may apply for a license as field representative.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. The applicant shall apply to the board for the issuance of a field representative's license within one year from the date the applicant passes the examination.

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

- (a) The length of time during which the applicant has engaged in any work relating to pest control.
- (b) The name and place of business of the person who last employed him or her.
- (c) The name of the person by whom the applicant is employed.
- (d) The name of the registered company by which the applicant is to be employed.
- (e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six

months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

8564.5. (a) Any individual 18 years of age or older may apply for a license as applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3.

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering the examination, provided, however, that the fee shall not exceed fifteen dollars (\$15).

(e) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

8564.6. To obtain an original applicator's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(a) The name of the registered company by which the applicant is to be employed.

(b) The fee prescribed by this chapter.

8565. The board shall ascertain by written examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading, writing, and spelling.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.

- (c) The labor laws of the state.
- (d) The provisions of this chapter.
- (e) Poisonous and other dangerous chemicals used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.
- (f) The theory and practice of the branch or branches of pest control in which the applicant desires to be licensed.
- (g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

8565.5. (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.
- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.
- (6) Fumigation safety.

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.
- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.
- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.
- (6) Construction repair and preservation techniques.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. These courses may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

8565.6. An applicant for a Branch 2 license may elect to be certified in the handling, control, and techniques of removal of Africanized honey bees. The board shall develop a program to certify applicants in this specialty, or may approve a program for certification developed by the Pest Control Operators of California.

8566. The board shall ascertain by written examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

- (a) The safety laws of the state, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (b) The provisions of this chapter.
- (c) Poisonous and other dangerous chemicals used in pest control, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.
- (e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches.

8566.5. An individual shall be permitted to hold only one license in the same branch at the same time.

If an individual who holds an operator's license requests to be licensed as a field representative or applicator, he or she may apply for a field representative's license or applicator's license and shall be granted the license without examination, if he or she surrenders his or her operator's license to the board, and provided that no disciplinary action has been initiated against the operator's license prior to the date of the individual's application for a field representative's license or applicator's license.

If an individual who holds a field representative's license requests to be licensed as an applicator, he or she may apply for an applicator's license and he or she shall be granted the license without examination, if he or she surrenders his or her field representative's license to the board, and if no disciplinary action has been initiated against the field representative's license prior to the date of the individual's application for an applicator's license.

8567. Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the registrar in writing, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. Whereupon the registrar shall register the change in his or her records.

8568. After a hearing the board may deny a license or a company registration unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the applicant is a company applying for a company registration, that its manager and each of its officers, directors, employees, members and partners have not:

- (a) Committed any act or crime constituting grounds for denial of licensure under Section 480.
- (b) While unlicensed or not registered, knowingly committed or aided and abetted the commission of any act for which a license or company registration is required under this chapter.
- (c) While acting as a partner, officer, managing employee, or qualifying manager of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license or company registration.

When a hearing is held under this section it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

8569. In addition to the partner or other individual designated as the qualifying manager for a registered company which is organized as a partnership, if any of the company's partners desire to actively engage in pest control on behalf of the partnership each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any partner who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the partnership in any other branch of pest control for which the partnership is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator or field representative, the other partner may engage in pest control only on behalf of the partnership of which he or she is a member, as long as he or she remains a partner thereof, but he or she may become associated with another partnership, or with a firm or corporation, in a capacity other than as a qualifying manager.

8570. In addition to the officer or other individual designated as the qualifying manager for a registered company which is organized as an association or corporation, if any of the company's other officers desire to actively engage in pest control in behalf of the association or corporation, each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any officer of such corporation who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the corporation in any other branch of pest control for which the corporation is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator or field representative, the officer may engage in pest control only on behalf of the association or corporation of which he or she is an officer, so long as he or she remains an officer thereof, but he or she may become associated with another association or corporation, or with a firm or partnership, in a capacity other than as a qualifying manager.

8571. If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be

reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

Article 5. Renewal of Licenses

8590. Except as otherwise provided herein, all operator's and field representative's licenses shall expire at 12 midnight on June 30 of every third year and all applicator's licenses shall expire at 12 midnight three years from the date of issue.

An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

Every operator and every field representative shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator and field representative whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

8590.1. All applicator's licenses shall expire at 12 midnight three years from the date of issue. Every applicator shall pay a fee for the renewal of his or her license.

The board shall, on or before 60 days prior to the expiration of an applicator's license, mail to the applicator whose license will expire, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the due date, a penalty will be added thereto. In no case shall the penalty be waived. Upon the receipt of the fee, the board shall cause the renewal certificate to be issued.

8591. If delinquency in the payment of the fee for renewal of any operator's or field representative's license extends beyond three months, the license may not be reinstated and the licensee may be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

8592. Any operator, field representative, or applicator whose license is under suspension may make application for renewal of his or her license as provided in this article, but the board may not renew his or her license until the suspension has been lifted.

8593. The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section.

The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$50) for each examination.

8593.1. The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may successfully apply for and pass an appropriate written applicator's examination for renewal of a license given by the board.

Article 6. Regulation of Licensees

8610. (a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b) (1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(c) Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

8612. The licenses of operators and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

8613. A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar in writing of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

8616. The Director of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8616.4. The board and the Department of Pesticide Regulation shall jointly develop a training program specifically relating to the various aspects of structural pest control and train all county agricultural commissioners and other personnel involved in structural pest control investigations and enforcement. No disciplinary action pursuant to Section 8617 may be taken by a county agricultural commissioner until training has been completed.

8616.4. The Director of Pesticide Regulation shall designate county agricultural commissioners as his or her representatives to carry out the provisions of Sections 8616.5, 8616.7, and 8617. The Director of Pesticide Regulation shall enter into a contract specifying their responsibilities and providing for reimbursement in accordance with Section 8505.17.

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies, and of persons engaged in unlicensed structural pest control. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

(b) The board and the Director of Pesticide Regulation shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

(c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee or registered company except (1) investigation of misuse incidents that are referred to the board for disciplinary action or that are the basis for county actions to suspend or fine structural pest control licensees or registered companies in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation performed by the county agricultural commissioner that has been requested by the board and involves exclusively a violation of this code.

8616.6. The Director of Pesticide Regulation shall be notified by the board when it determines that persons acting pursuant to Sections 8616 and 8616.4 have not fulfilled their responsibilities under this chapter in a specific county or counties. The notice to the

Director of Pesticide Regulation, which shall be dealt with in a timely manner, shall specifically list the actions which caused the filing of the notice. If the notice is not dealt with in a manner satisfactory to the board, the board may then suspend the activities of its agent pursuant to Section 8616.5, who is subject to the notice in the specific county or counties for which the notice was filed for a period not to exceed 60 days.

8616.7. When a county agricultural commissioner is acting, pursuant to Section 8616.4, only the commissioner may conduct inspections and routine investigations pursuant to Section 8616.5 and take disciplinary action pursuant to Section 8617. Except as otherwise provided, nothing in this section shall be construed as limiting or excluding the assistance provided to the board by the Division of Investigation under Sections 155 and 159.5 other than by board personnel.

8616.9. If an employee is found during an inspection or investigation not wearing personal protective equipment required by regulation, the commissioner shall have the option to use discretion in citing an employer only if evidence of all of the following is provided:

(a) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by regulation.

(b) The employer provided personal protective equipment required by regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.

(c) The employer is in compliance with regulations relating to the workplace and supervision of employees.

(d) The employer has implemented and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.

(e) The employer has no history of repeated violations of this section.

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars (\$1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter, or Chapter 14.5, or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars (\$5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever

possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.

If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(e) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal.

(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine.

Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any inspection stamps, notice of completion stamps, or pesticide use stamps until the assessed fine has been paid.

Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(h) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a) of this section, "commissioner" as used in subdivisions (c), (d), and (e) includes the board's registrar.

8617.5. Regulations adopted pursuant to Section 11503 of the Food and Agricultural Code are not applicable to this chapter.

8618. Documents as specified by regulation must be maintained by all registered companies for three years.

8619. (a) An inspection tag shall be posted whenever an inspection for wood destroying pests or organisms is made.

(b) If the registered company completes any work with respect to wood destroying pests or organisms, it shall post a completion tag next to the inspection tag.

Article 7. Disciplinary Proceedings

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as a licensee, or making application for a license.

After a hearing, the board may temporarily suspend or permanently revoke a license issued under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board may assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In this case, the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it is null and void and does not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation, the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

8621. All complaints against licensees or registered companies shall be filed with the board within two years after the act or omission alleged as the ground for disciplinary action or, in the case of fraud, within four years after commission of the fraudulent act or omission. The board shall file any accusation within one year after the complaint has been filed with the board, except that with respect to an accusation alleging a violation of Section 8637, the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

8624. If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

8625. The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

8632. The suspension or revocation of a license or a company registration as in this chapter provided may also be ordered in any action otherwise proper in any court involving the licensee's or a company's performance of a legal obligation as a licensee or registrant under this chapter.

8635. Departure from, or disregard of, plans or specifications in the performance of structural pest control work in any material respect, without consent of the owner or his duly authorized representative, is a ground for disciplinary action.

8636. Disregard and violation of the buildings laws of the state, or of any of its political subdivisions, or of the safety laws, labor laws, health laws, or compensation insurance laws of the state relating to the practice of structural pest control is a ground for disciplinary action.

8637. Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

8638. Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

8639. Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

8640. Payment, or the offer to pay, by any licensee or registered company to any party to a real estate transaction of any commission, bonus, rebate, or other thing of value as compensation or inducement for the referral to such licensee or registered company of pest control work arising out of such transaction is a ground for disciplinary action.

8641. Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

8642. The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action.

8643. The negligent handling or use of any poisonous exterminating agent is a ground for disciplinary action.

8644. Fraud or misrepresentation, after inspection, by any licensee or registered company engaged in pest control work of any infestation or infection of wood-destroying pests or organisms found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by wood-destroying pests or organisms,

whether or not a report was made pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action.

8645. Impersonation of any state, county or city inspector or official is a ground for disciplinary action.

8646. Disregard and violation of pesticide use and application, structural pest control device, fumigation, or extermination laws of the state or of any of its political subdivisions, or regulations adopted pursuant to those laws, is a ground for disciplinary action.

8646.5. A notice of noncompliance shall be issued to a licensee or registered company whenever an authorized representative of the board finds that a pesticide application, fumigation or extermination procedure being performed by the licensee or registered company is not in compliance with applicable laws, rules, or regulations. Upon receiving such notice, the licensee or registered company shall discontinue such pest control work until the procedure is brought into compliance. Failure to discontinue after receiving a notice of noncompliance is a ground for disciplinary action.

8647. Failure to comply in the sale or use of insecticides with the provisions of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground for disciplinary action.

8648. Authorizing, directing, conniving at or aiding in the publication, advertisement, distribution or circulation of any material by false statement or representation concerning a registered company's business is a ground for disciplinary action.

8649. Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

8650. Acting in the capacity of a licensee or registered company under any of the licenses or registrations issued hereunder except:

- (a) In the name of the licensee or registered company as set forth upon the license or registration, or
- (b) At the address and location or place or places of business as licensed or registered or as later changed as provided in this chapter is a ground for disciplinary action.

8651. The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of eliminating, exterminating, controlling, or preventing structural pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

8652. Failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours.

8653. The failure of any registered company or agent or officer thereof, to pay any moneys due for any materials or services rendered in connection with its operations as a registered pest control company, when it has the ability to pay or when it has received sufficient funds therefor as payment for the particular pest control work, project, or operation for which the services or materials were rendered or purchased, is a ground for disciplinary action, as is the false denial of any such indebtedness or of the validity of the claim thereof with intent to secure for itself, or other person any discount upon such indebtedness or with intent to hinder, delay, or defraud the person to whom such indebtedness is due.

8654. Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

8655. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8656. In addition to the remedies provided for in Section 125.9, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not

sell to the registered company any pesticide use stamps until the assessed fine has been paid.

8657. The appointment of a receiver of the property of a licensee or registered company as provided in Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, or the making of an assignment for the benefit of creditors, constitutes a cause for disciplinary action.

If a license or registration is suspended or revoked upon the grounds set forth in this section, the registrar in his or her discretion may renew or reissue such license upon the condition that each contract undertaken by the licensee or registered company be separately covered by a bond or bonds conditioned upon the performance of, and the payment of labor and material required by, the contract.

8658. The board may bring an action to enjoin the violation of any provision of this chapter in any superior court in and for the county in which the violation has occurred. Any such action shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the board shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable damage or loss. The action shall be brought in the name of the people of the State of California.

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of Food and Agriculture and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

8662. (a) Whenever the right of a structural pest control licensee or registered company to make pesticide applications is to be suspended or the licensee, registered company, or unlicensed individual is to be fined pursuant to Section 8617, and if the person upon whom the commissioner imposed a fine or suspension requested and appeared at a hearing before the commissioner in accordance with Section 8617, the party to be suspended or fined may appeal to the Disciplinary Review Committee by filing a written appeal with the committee within 30 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her or its authorized agent, state the grounds for the appeal, and include a copy of the commissioner's decision. The appellant shall file a copy of the appeal with the commissioner at the same time it is filed with the committee.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, or at a later time prescribed by the committee or its designee, present the record of the hearing, including written evidence that was submitted at the hearing and written argument to the committee stating the grounds for affirming, modifying, or reversing the commissioner's decision.

(3) The committee or its designee may grant oral argument upon application made at the time written arguments are filed. If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given each party at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the committee.

(4) At any time written evidence is submitted to the committee, a copy shall be immediately provided to the other party.

(5) The committee shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2) that the committee may have received. If the committee finds substantial evidence in the record to support the commissioner's decision, the committee shall affirm the decision.

(6) The committee shall render its written decision within 45 days of the date of appeal or within 15 days from the date of oral arguments, or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the committee may sustain, modify by reducing the time of suspension or the amount of the fine levied, or reverse the decision. A copy of the committee's decision shall be delivered or mailed to each party.

(8) Review of the decision of the committee may be sought by the licensee, registered company, or unlicensed individual pursuant to Section 1094.5 of the Code of Civil Procedure.

8663. (a) This section only applies to work conducted under a Branch 1 license.

(b) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may levy a fine of up to one thousand dollars (\$1,000) against a registered company acting as a prime contractor for any major violation committed by any licensee with whom the prime contractor has subcontracted if, before that violation occurred, the prime contractor had been notified by certified mail, return receipt requested, of more than two major violations committed by the subcontractor within 12 consecutive months.

Fines collected pursuant to this section shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund.

(c) For purposes of this section, "major violation" means a violation of any of the following provisions of this code or of the California Code of Regulations that poses a serious hazard to humans:

(1) A violation of subdivision (a) or (b) of Section 1970.4 of Title 16 of, or Section 6454 of Title 3 of, the California Code of Regulations, or a violation of Section 8505.5.

(2) Any violation of the structural pest control law that results in a serious injury to any person.

(3) A violation of Section 8505.2 or 8505.3, relating to direct and personal supervision.

(4) A violation of Section 8505.7, relating to vacating and securing structures.

(5) A violation of subdivision (a) of Section 6780 of Title 3 of the California Code of Regulations.

(6) A violation of Section 6454 of Title 3 of the California Code of Regulations.

(7) A violation of Section 8505.12, relating to warning agents.

(8) A violation of Section 8505.9 or 8505.10, relating to warning signs.

(d) A copy of a notice of violation issued for any violation committed by a subcontractor shall be sent by certified mail to the prime contractor by the issuing authority within 15 days from the date the violation was committed.

(e) Notwithstanding subdivision (b), a prime contractor may be fined for a subcontractor's first violation for failing to have a signed factsheet on the premises being treated, or if the subcontractor fails to provide advance notice of a treatment to the occupants of the premises being treated.

8664. (a) This section only applies to work conducted under a Branch 1 license.

(b) Before a fine can be levied pursuant to Section 8663, the prime contractor shall be provided notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The prime contractor may appeal the fine to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(d) If a fine is ordered, it may not take effect until 20 days after the date of the decision provided that no appeal is filed. If an appeal is filed pursuant to Section 8662, the order shall be stayed until 20 days after the committee has ruled on the appeal.

(e) Once final action is taken pursuant to this section, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the fine order issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

8665. The fact that an applicator is licensed shall not affect any liability or responsibility for disciplinary action of any operator, field representative, or registered company that employs or supervises an applicator.

8666. It shall be unlawful for any licensee under this chapter to recommend or to perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.

A violation of this section is a public offense and is punishable upon the first conviction by imprisonment in the county jail for not more than six months, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

Article 8. Revenue

8670. As used in this chapter, "original operator's license" means an operator's license that is not a renewal license.

8671. As used in this chapter, "renewal operator's license" means a license issued to an individual who had an operator's license unrevoked and unsuspended on June 30th of the preceding renewal period.

8672. As used in this chapter, "original field representative's license" means a field representative's license issued to an individual who did not have a license on the preceding June 30th.

For the purpose of this chapter, a renewal field representative's license means a field representative's license issued to an individual who had a field representative's license on June 30th of the preceding renewal period.

8673. License fees shall not be prorated unless an individual licensed as an operator and a field representative requests an earlier expiration date of one of the licenses in accordance with Section 8590. All license and registration fees shall be paid in advance of the issuance of the license or registration, and all examination fees shall be paid in advance of the examination.

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than twenty-five dollars (\$25).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than fifteen dollars (\$15).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than fifteen dollars (\$15).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).

(r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board.

Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby created and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

8675. The delinquent penalty for a renewal of any license issued under this chapter applied for after the expiration date of the license shall be 50 percent of the fee required for the renewal of the license applied for before the expiration date but not more than one hundred dollars (\$100).

8676. The department shall receive and account for all moneys collected under this chapter at the end of each month, and shall pay it into the Treasury to the credit of the Structural Pest Control Fund.

The money in this fund shall be expended for the pro rata cost of administration of the department and for the purpose of carrying out the provisions of this chapter.

Article 9. Financial Responsibility

8690. The board shall not issue any company registration under this chapter unless the applicant shall have filed with the board on a form prescribed by the board written evidence of an insurance policy approved by the board or a bond as specified in this article, being in effect at the time of the issuance of the company registration. This written evidence shall include a provision that the board shall be given a 10-day notice by the insurance company or bonding company should the policy or bond be canceled or changed during the policy or bond period in a manner as to affect the written evidence.

8691. No registered company shall engage in any of the practices for which it is required to be registered by this chapter unless it maintains such insurance policy or bond as specified in this article.

8692. An "insurance policy" as used in this article means a contract of liability insurance issued by an insurance company authorized to transact business in this state or one issued by a nonadmitted carrier whose activities in this state are controlled by the Surplus Line Association, which insures the policyholder against loss from legal liability for damages on property upon which work is being performed or has been completed, including third party losses, as a result of an accident or occurrence due to participation in any control, prevention, or repair activities which require a license under this chapter. The insurance policy shall provide minimum limits of twenty-five thousand dollars (\$25,000) for any one loss due to bodily injury, sickness or disease, including death at any time resulting therefrom, sustained by any person or persons, and twenty-five thousand dollars (\$25,000) minimum for any one loss due to injury or destruction of property, including the loss of use thereof.

This section shall not be construed to require errors and omissions insurance for all activities relating to or during inspections, inspection reports, recommendations, estimates, and bids, whether oral or written.

8693. In lieu of the insurance policy specified in this article an applicant for a company registration may file with the board a bond executed by an admitted surety insurer in the penalty of twenty-five thousand dollars (\$25,000) with the State of California as obligee.

8695. The violation of any provision of this article is a misdemeanor and shall be grounds for the suspension or revocation by the board of the operator's license of the owner or qualifying manager or managers of the registered company and of the company registration.

Article 10. Indemnity Bonds

8697. Each company registered under the provisions of this chapter shall maintain a bond executed by an admitted surety insurer in the amount of four thousand dollars (\$4,000).

8697.2. The bonds required by this article shall be in favor of the State of California for the benefit of any person who, after entering into a contract with a registered company, is damaged by fraud or dishonesty of the registered company in the performance of the contract, or any person who is damaged as a result of a violation of this chapter by the registered company.

8697.3. If, after a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, a license or company registration is suspended or revoked upon the grounds set forth in Article 7 (commencing with Section 8620) of this chapter, the registrar shall require the applicant, licensee, or registered company, as a condition to the issuance, reissuance, or restoration of the license or company registration, to file a surety bond in the sum to be determined by the registrar based upon the seriousness of the violation, but which sum shall not be less than one thousand dollars (\$1,000) nor more than eight thousand dollars (\$8,000).

The bond required by this section shall be in addition to the bond required by Section 8697 of this article.

Each applicant, licensee, or registered company required to maintain a bond of the type provided in this section shall post such bond with the registrar for a period of at least two years and during such additional time as there may be unsatisfied claims outstanding against the same.

8697.4. Upon failure of a licensee or registered company to maintain in full force and effect any bond required by this article the registrar shall issue an order suspending or revoking the license or company registration, which shall not be reinstated until a new bond is filed.

8697.5. Such bonds as are required by this article shall be in addition to any bond which may be maintained pursuant to the provisions of Article 9 (commencing with Section 8690) of this chapter.

Chapter 14.5 Structural Fumigation Enforcement Program

8698. The Director of the Department of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8698.1. The Los Angeles County Agricultural Commissioner or the Orange County Agricultural Commissioner, or both, may contract with the director to perform increased structural fumigation, inspection, and enforcement activities. These activities shall be funded by the moneys collected pursuant to this chapter.

8698.1. (a) If the county has contracted pursuant to Section 8698, any person who performs a structural fumigation in Los Angeles County or Orange County shall pay to the county agricultural commissioner a fee of five dollars (\$5) for each treatment conducted at a specific building or structure.

(b) The fees shall be submitted by the 10th day of the month following the month in which the treatment was performed. The fees shall be accompanied by a copy of a monthly pesticide use report showing the addresses, including the department number if applicable, of all structural fumigations. The report shall be in a form required by the director, identify the name and address of the person or company performing the fumigation, and include any other information requested by the director.

8698.2. The Director of the Department of Pesticide Regulation may adopt regulations to carry out the provisions of this chapter. In adopting regulations the director shall, in consultation with the Structural Pest Control Board, review recommendations from any individual, including any licensed pest control operator regarding matters which pertain to the use of structural fumigation to control pests. The director shall respond within a reasonable period of time to recommendations which the director deems are practicable and in the interest of the structural pest control industry and the public. The response of the director shall be in writing and shall contain statements regarding reasons for acceptance or rejection of a recommendation.

8698.3. (a) The Director of the Department of Pesticide Regulation may levy a civil penalty against a person violating this chapter, including any regulation adopted pursuant to this chapter.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.

(c) Review of the decision of the director may be sought by the person against whom the penalty was levied, within 30 days of receiving notice of the decision, pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the review procedure provided in this section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order.

No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

8698.5. Any funds collected pursuant to this chapter shall be paid to the county and used for the sole purposes of funding enforcement and training activities directly related to the structural fumigation project created pursuant to Section 8698.

8698.6. This chapter shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 2006, deletes or extends that date.

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

DIVISION 19. STRUCTURAL PEST CONTROL BOARD

(ORIGINALLY PRINTED 12-5-46)

Article 1. General Provisions

§1900. Location of Offices.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8530, Business and Professions Code.

HISTORY:

1. Amendment filed 3-15-79; effective thirtieth day thereafter (Register 79, No. 11).
2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1901. Tenses, Gender, and Numbers.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1902. Definitions.

For the purpose of these rules and regulations, "board" means the State Structural Pest Control Board, and "code" means the Business and Professions Code.

NOTE: Authority cited: Sections 8520 and 8525, Business and Professions Code.

Reference: Section 8525, Business and Professions Code.

HISTORY:

1. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1903. Delegation of Certain Functions.

The board delegates to the registrar and executive secretary or in his or her absence from the office of the board, the acting registrar and executive secretary the power and discretion conferred by law upon the board to determine compliance by a licensee or registered company with the provisions of Chapter 14 of Division 3 of the code and rules and regulations adopted thereunder as follows:

- (a) to send notices of non-compliance pursuant to Section 8622 of the code;
- (b) to receive and file accusations;
- (c) to issue notices of hearings, statement to respondent, and statements of issues;
- (d) to receive and file notices of defense;
- (e) to determine the time and place of hearing under Section 11508 of the Government Code;
- (f) to issue subpoenas and subpoenas duces tecum;
- (g) to set and calendar cases for hearings and perform other functions necessary to the efficient dispatch of the business of the board in connection with proceedings under the

provisions of Sections 11510 through 11528 of the Government Code, prior to the hearing of such proceedings; and

(h) to certify and deliver or mail copies of decisions under Section 11518 of the Government Code.

NOTE: Authority cited: Sections 8520 and 8525, Business and Professions Code.

Reference: Sections 8525 and 8622, Business and Professions Code; and Sections 11508 and 11510-11528, Government Code.

HISTORY:

1. Amendment filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of first paragraph only filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 3).

Article 2. Administration

§1910. Robert's Rules of Order.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1910.1. Emergency Conditions for Meetings and Additions to Meeting Agendas.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference cited: Section 11125(a), Government Code.

HISTORY:

1. New section filed 11-19-79; effective thirtieth day thereafter (Register 79, No. 47).
2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1911. Addresses; Change of Address/Employment.

Each operator, field representative and applicator shall file his or her address of record with the board and shall notify the board of any change in address within ten (10) days of such change. The address of record of a field representative, an operator or an applicator shall be the address of the registered company by which he or she is employed or with which he or she is associated or his or her residence address if he or she is not employed and associated.

Each licensee shall also file his or her address for mailing purposes with the board and shall notify the board of any change in address within ten (10) days of such change.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 136, 8567, 8613 and 8650, Business and Professions Code.

HISTORY:

1. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
2. Amendment filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2 (d) (Register 87, No. 13).
3. Amendment filed 5-19-92; operative 6-18-92 (Register 92, No. 21).
4. Amendment of section and Note filed 3-13-96; operative 4-12-96 (Register 96, No. 11).
5. Amendment of section and Note filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1912. Branch Offices Registration.

A registered company that opens a branch office shall notify the board of that fact within 30 days on a written form provided by the board (see form No. 43L-15 at the end of this section) accompanied by the required registration fee.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8509 and 8612, Business and Professions Code.

HISTORY:

1. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
2. Repealer of subsection (b) filed 1-30-85; effective thirtieth day thereafter (Register 85, No. 5).

3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2 (d) (Register 87, No. 13).
4. Change without regulatory effect amending section filed 5-17-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 21).

§1913. Different Name Style--Same Entity.

A branch office may not be registered in a name style different from that shown on the certificate of the registered company. A registered company which wishes to conduct an additional business in a name style different from that which is shown on its company registration certificate shall obtain a separate company registration certificate for each such business.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8612, Business and Professions Code.

HISTORY:

1. New NOTE filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
2. Amendment filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2 (d) (Register 87, No. 13).
3. Amendment filed 5-13-92; operative 6-12-92 (Register 92, No. 20).

§1914. Name Style--Company Registration.

No company registration certificate shall be issued in a fictitious name which the board determines to be confusingly similar to the name of another registered company, or which is likely to be confused with that of a governmental agency or trade association. No company registration shall be issued in the same name or in a name style which the board determines is confusingly similar to the name of a firm whose company registration has been suspended or revoked unless a period of at least one year has elapsed from the effective date of the suspension or revocation.

It shall be grounds for disciplinary action for a registered company to use the telephone number and/or name style of a firm whose company registration has been suspended or revoked, without the prior written approval of the board.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8525 and 8650, Business and Professions Code.

HISTORY:

1. Amendment filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2 (d) (Register 87, No. 13).

§1914.1. Limitation Regarding Name Style.

HISTORY:

1. New section filed 10-29-70; designated effective 11-30-70 (Register 70, No. 44).
2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1915. Change of Employment--Operator--Field Representative.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1916. Time Allowed--Replacing Qualifying Manager.

A registered company which notifies the board of the disassociation of its qualifying manager or branch supervisor within the ten day period prescribed by Section 8571 of the code, shall be granted a period of thirty (30) days in which to replace such person with another qualifying manager or branch supervisor. An additional thirty (30) day extension can be granted by the registrar for good cause.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8571, Business and Professions Code.

HISTORY:

1. Amendment filed 1-2-68; effective thirtieth day thereafter (Register 68, No. 1).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1917. Change of Name.

When a structural pest control licensee or registered company changes his or her or its name, he or she or it shall file with the registrar an application for change of name on a form prescribed by the board (See form No. 43L-8 at the end of this section) accompanied by the required fee and by a declaration certified under penalty of perjury, stating:

- (a) The former name,
- (b) The type and number of the pest control license or company registration, and
- (c) That the change of name was not for the purpose of defrauding creditors or any other person or persons or for circumventing the provisions of the Business and Professions Code of California or any other law of the United States, State of California or any political subdivision thereof.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8674 and 8650, Business and Professions Code.

HISTORY:

1. New section filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1918. Supervision of Registered Companies and Branch Offices.

"Supervise" as used in Sections 8506.2, 8610 and 8611 of the code means actual on-site supervision.

In cases of ownership of more than one registered company by the same sole owner, corporation or partnership where the qualifying manager or managers cannot provide actual on-site supervision to each registered company because of the location of the

companies, the registered company may designate an individual or individuals licensed as an operator or as a field representative in the branch or branches of business being conducted to provide actual on-site supervision. This designated supervision must be under the direct supervision of the qualifying manager or managers. This designation of supervision does not relieve the qualifying manager or managers of his or her responsibilities to supervise as required in sections 8506.2 and 8610.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8506.2, 8610 and 8611, Business and Professions Code.

HISTORY:

1. New section filed 6-15-89; operative 7-15-89 (Register 89, No. 25).
2. Amendment of section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1919. Research Advisory Panel.

The research advisory panel shall consist of one member from the Structural Pest Control Board, two representatives from the structural pest control industry, one representative from the Department of Pesticide Regulation and one representative from the University of California.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8674, Business and Professions Code.

HISTORY:

1. New section filed 12-26-90; operative 1-25-91 (Register 91, No. 6).
2. Amendment filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1920. Citations and Fines.

(a) Authority to Issue Citations and Fines:

(1) The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain an order of abatement or an administrative fine ("fine") for violations of the statutes contained in the Structural Pest Control Act (commencing with Business and Professions Code Section 8500) or the regulations adopted by the Board.

(2) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes(s) or regulation(s) alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(b) Citation; Assessment of Fine:

Citations may be issued without the assessment of a fine. The amount of any fine to be levied by the Registrar or Deputy Registrar shall be no more than \$5000.

In determining whether a citation shall contain an order of abatement or a fine and if a fine is to be imposed, the Registrar or Deputy Registrar shall consider the following factors:

- (1) Gravity of the violation.
- (2) History of previous violations of the same or similar nature.
- (3) The good or bad faith exhibited by the cited person.
- (4) Evidence that the violation was willful.
- (5) The extent to which the cited person cooperated with the Board's investigation.

(6) The extent to which the cited person has mitigated or attempted to mitigate any damage caused by his or her violation.

(7) Such other factors as the Registrar or Deputy Registrar considers relevant.

(c) Citations for Unlicensed Practice:

The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain order of abatement or a fine against persons who are performing or who have performed services for which a structural pest control license is required under the Structural Pest Control Act. The citation issued under this section shall be separate from and in addition to any other civil or criminal remedies.

(d) Compliance with Orders of Abatement:

When a citation is not contested or if the citation is appealed and the person cited does not prevail, failure to comply with the order of abatement or to pay the fine in the citation within the time allowed by a licensee may result in disciplinary action being taken by the Board against the person cited, or where the cited person is unlicensed in appropriate judicial relief being taken against the person cited.

(e) Contest of Citations:

(1) In addition to requesting a hearing provided for in subdivision (b)(4) of section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the Registrar or Deputy Registrar, as designated, in writing of his or her request for an informal conference with the designated Registrar or Deputy Registrar. The informal conference shall include at least one, but no more than two, industry members of the Board, as designated by the Registrar.

(2) The informal conference shall be held within 60 days from the receipt of the request of the person cited. At the conclusion of the informal conference, the Registrar or Deputy Registrar may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The decision shall state in writing the reasons for the action and shall be served or mailed to the person within ten (10) days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(3) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the Registrar or Deputy Registrar. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b)(4) of section 125.9 of the code.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 8-13-98; operative 9-12-98 (Register 98, No. 33).

2. New section heading filed 7-17-2003; operative 8-16-2003. Submitted to OAL for printing only (Register 2003, No. 29).

3. Change without regulatory effect amending subsections (b)(5) and (e)(3) filed 9-4-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 36).

4. Change without regulatory effect amending subsection (b) filed 12-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 51).

§1922. Civil Penalty Actions by Commissioners.

(a) When taking civil penalty action pursuant to section 8617 of the Business and Professions Code, county agricultural commissioners shall use the provisions of this section to determine the violation class and the fine amount.

(1) For purposes of this section, violation classes shall be designated as “serious,” “moderate,” and “minor.”

(A) “Serious”: Violations that are repeat violations of those in subparagraph (B) or violations which created an actual health or environmental hazard. The fine range for serious violations is \$401-\$1,000.

(B) “Moderate”: Violations that are repeat violations of those in subparagraph (C) or violations which pose a reasonable possibility of creating a health or environmental effect. The fine range for moderate violations is \$151-\$400.

(C) “Minor”: Violations that did not create an actual health or environmental effect or did not pose a reasonable possibility of creating a health or environmental effect. The fine range for minor violations is \$50-\$150.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8617, Business and Professions Code.

HISTORY:

1. New section filed 5-14-98; operative 6-13-98 (Register 98, No. 20).

§1922.3. Course Requirement by County Agricultural Commissioners.

(a) When, pursuant to Business and Professions Code section 8617, a lawful order is made by a county agricultural commissioner to direct a licensee to take and pass a board approved course of instruction, the licensee prior to taking the course shall submit the name of the course and documentation regarding its content to the same agricultural commissioner for review and approval.

(b) The submittal for approval shall be made within twenty (20) days of the order. The county agricultural commissioner shall make a decision and respond to the licensee within twenty (20) days.

(c) The course of instruction shall have content that directly addresses applicable pesticide use laws, regulations and the practice of structural pest control relating to the violations committed. After completion of the approved course, the licensee shall take and pass an examination provided by the course provider that directly relates to the course content. A passing score for the examination shall reflect that the licensee correctly answered at least seventy percent (70%) of the examination questions.

(d) After passing the examination, the licensee shall obtain a certificate of course completion from the course provider. As proof of compliance, the licensee shall submit the certificate to the county agricultural commissioner who issued the Notice of Proposed Action within twenty (20) days of course completion.

(e) The licensee must comply with the order within ninety (90) days. The commissioner shall have the discretion to extend this date up to one hundred eighty (180) days after issuance of the Notice of Proposed Action.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8616.4 and 8617, Business and Professions Code.

HISTORY

1. New section filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).
2. Change without regulatory effect amending subsection (d) filed 10-20-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

Article 3. Licensing

§1934. Board-Approved Operator's License Course.

Board-approved or Board-developed courses required by section 8565.5 of the Business and Professions Code must have been successfully completed within three years prior to the applicant taking the operator's licensing examination.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8565.5, Business and Professions Code.

HISTORY:

1. New section filed 8-13-98; operative 9-12-98 (Register 98, No. 33).

§1935. Examination Procedure.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1936. Form and Date for Filing Application for License.

(a) An application for an initial operator's or field representative's license shall be:

(1) Filed at the principal office of the board on a form provided by the board (See Form 43L-26(Rev. 3/90) as printed at the end of section 1936.1, or Form 43L-14(Rev. 8/90) which is printed at the end of this section) and shall comply with every requirement shown thereon.

(2) Accompanied by the required examination fee. Applications not filed with the board at least 15 days prior to the next scheduled examination will not be considered for that examination.

(b) All documents filed in support of any application will be retained by the board; provided, however, that the board may at its discretion permit such documents to be withdrawn upon substitution of a true copy.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8560-8566 and 8674, Business and Professions Code.

HISTORY:

1. Amendment of subsection (b) filed 1-2-68; effective thirtieth day thereafter (Register 68, No. 1).

2. Amendment of subsections (c) and (d) filed 3-15-79; effective thirtieth day thereafter (Register 79, No. 11).

3. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

4. Amendment of subsection (a)(1) and new form 43L-14 filed 6-22-92; operative 7-22-92 (Register 92, No. 26).

§1936.1. Form and Date for Filing Application for Company Registration Certificate.

(a) An application for a company registration certificate shall be:

(1) Filed at the principal office of the board on a form provided by the board (See Form No. 43L-26 Rev. (3/90) at the end of this section) and shall comply with every requirement shown thereon.

(2) Accompanied by the required company registration fee.

(b) All documents filed in support of any application will be retained by the board; provided, however, that the board may at its discretion permit such documents to be withdrawn upon substitution of a true copy.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8610 and 8674, Business and Professions Code.

HISTORY:

1. New section filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).

2. Change without regulatory effect amending subsection (a)(1) filed pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 30).

§1936.2. Form for Filing Application for Applicator's License.

(a) An application for an initial applicator's license shall be:

(1) Filed at the principal office of the board or at the office of one of the board's designated examination administrators, including, but not limited to, county agricultural commissioners, on a form provided by the board (See Form 43E-21 (New 5/95) which is printed at the end of this section) and shall comply with every requirement shown thereon.

(2) Accompanied by the required examination fee.

(b) All documents filed in support of any application will be retained by the board.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8564.5 and 8564.6, Business and Professions Code.

HISTORY:

1. New section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1937. Qualification of Applicant.

(a) "Experience" and "in the employ of," as used in section 8562(b) of the code and "training and experience" as used in section 8564 of the code means actual field work.

(b) A qualifying manager of a registered company or licensed operator designated by a company shall provide written certification of an employee's or former employee's experience and time accurately and promptly upon written request by the employee. The qualifying manager or designated licensed operator must be licensed in the branch or branches for which he/she is certifying experience and time.

(c) Specific minimum requirements of training and experience are accorded to the branch or branches for which the applicant is applying, as follows:

- | | |
|----------|--|
| Branch 1 | A minimum of one hundred hours of training and experience in preparation, fumigation, ventilation, and certification required. |
| Branch 2 | A minimum of forty hours of training and experience, twenty hours of which are actual field work, required. |
| Branch 3 | A minimum of one hundred hours of training and experience, eighty hours of which are actual field work, required. |

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8560, 8562 and 8564, Business and Professions Code.

HISTORY:

1. New subsection (d) filed 3-15-79; effective thirtieth day thereafter (Register 79, No. 11).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of subsection (b) filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
4. Amendment filed 6-21-89; operative 7-21-89 (Register 89, No. 25).
5. Editorial correction restoring HISTORY 4. and correct text (Register 91, No. 45).
6. Amendment of subsection (a) and new subsection (c) filed 8-13-98; operative 9-12-98 (Register 98, No. 33).

§1937.1. Substantial Relation Criteria.

For the purposes of denial, suspension or revocation of a license or company registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or potential unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

- (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.
- (b) Commission of any of the following in connection with the practice of structural pest control:
 - (1) Fiscal dishonesty
 - (2) Fraud
 - (3) Theft
 - (4) Violations relating to the misuse of pesticides.

NOTE: Authority cited: Sections 481 and 8525, Business and Professions Code. Reference: Sections 8525, 8568, 8620 and 8646, Business and Professions Code.

HISTORY:

1. Repealer and new section filed 3-14-75; effective thirtieth day thereafter (Register 75, No. 11). For history of former section, see Register 73, No. 14.
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of first paragraph only filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1937.2. Criteria for Rehabilitation.

(a) When considering the denial of a structural pest control license or company registration under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his or her or its present eligibility for a license or company registration will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a structural pest control license or company registration on the grounds that the licensee or registered company has been convicted of a crime, the board, in evaluating the rehabilitation of such person or company and his or her or its present eligibility for a license or company registration will consider the following:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee or registered company has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered company.

(c) When considering a petition for reinstatement of a structural pest control license or company registration, the board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

NOTE: Authority cited: Sections 475, 476, 480-482, 484-487 and 8525, Business and Professions Code. Reference: Sections 475, 476, 480-482, 484-487 and 8525, Business and Professions Code.

HISTORY:

1. Repealer and new section filed 3-14-75; effective thirtieth day thereafter (Register 75, No. 11). For history of former section, see Register 73, No. 14.

2. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1937.11. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" [1991] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board and/or administrative law judges in its/his or her discretion determines that the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Section 8525, Business and Professions Code, Section 11425.50(e), Government Code. Reference: Section 11425.50(e), Government Code, and Sections 8620, 8635, 8636, 8637, 8638, 8639, 8640, 8641, 8642, 8643, 8644, 8645, 8646, 8646.5, 8647, 8648, 8649, 8650, 8651, 8652, 8653, 8654, 8655 and 8657, Business and Professions Code.

HISTORY:

1. New section filed 4-14-97; operative 5-14-97 (Register 97, No. 16).

§1937.12. Conditions of Probation.

(a) Whenever a proposed decision places a licensee or registered company. on probation as a condition of staying a revocation or staying all or any portion of a suspension, the order granting such probation shall include at least the following conditions:

(1) That the licensee or registered company. shall file quarterly reports with the board during the period of probation;

(2) Such other terms and conditions as may be appropriate in light of the number and nature of the violations proven.

(b) Nothing in this regulation shall deprive the board of its authority to modify or delete any term or condition of probation contained in a proposed decision submitted by an administrative law judge.

NOTE: Authority cited: Sections 8525 and 8620, Business and Professions Code.

Reference: Section 8620, Business and Professions Code.

HISTORY:

1. New section filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).
2. Amendment of subsection (a) filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1937.13. Posting Notice of Suspended Company Registration.

A registered company whose registration is suspended shall post in a place conspicuous to the public a notice provided by the Board that its registration is under suspension. The notice shall be posted at each and every office that is under the suspension order.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference:

Sections 8525, 8620 and 8624, Business and Professions Code.

HISTORY:

1. New section filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1937.14. Quality of Work Completed.

All work completed by licensees or registered companies shall be done within the specific requirements of any plans or specifications and shall meet accepted trade standards for good and workmanlike construction in any material respect, and shall comply with provisions of Section 2516(c)(1), (2), (4) and (6) of Title 24, California Code of Regulations.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8525, 8635 and 8636, Business and Professions Code.

HISTORY:

1. New section filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment of NOTE filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).
4. Amendment filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§1937.16. Notice to Owner.

The "Notice to Owner" form to be used by branch 1 and branch 3 registered companies in accordance with Section 8513 of the code shall be that set forth below.

NOTICE TO OWNER

Under the California Mechanics Lien Law any structural pest control company which contracts to do work for you, any contractor, subcontractor, laborer, supplier or other person who helps to improve your property, but is not paid for his or her work or supplies, has a right to enforce a claim against your property. This means that after a court hearing, your property could be sold by a court officer and the proceeds of the sale used to satisfy the indebtedness. This can happen even if you have paid your structural pest control company in full if the subcontractor, laborers or suppliers remain unpaid.

To preserve their right to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are required to provide you with a document entitled "Preliminary Notice." Prime contractors and laborers for wages do not have to provide this notice. A Preliminary Notice is not a lien against your property. Its purpose is to notify you of persons who may have a right to file a lien against your property if they are not paid.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8513, Business and Professions Code.

HISTORY:

1. New section filed 9-21-84; effective thirtieth day thereafter (Register 84, No. 38). For prior history, see Register 83, No. 20.
2. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1937.17. Customer Notification.

Every licensee shall provide notice to the licensee's clients or customers of the fact that he/she is licensed by the Structural Pest Control Board. Notice shall be provided by, but not limited to, any of the following methods:

- (1) Verbally at the time that services are requested.
- (2) Company business card identifying person as a licensee of the Structural Pest Control Board.
- (3) Structural Pest Control Board license number printed on Wood Destroying Pest and Organisms Inspection Report form.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 138, Business and Professions Code.

HISTORY:

1. New section filed 12-16-2002; operative 1-15-2003 (Register 2002, No. 51).

§1938. Group Qualification for Operator's License.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1939. Fees.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1940. Notice of Operator's and Field Representative's Examinations.

Operator's and Field Representative's examination notices shall be mailed to all persons eligible for examination. Such notice shall be sent by United States mail, the postage fully prepaid, addressed to the applicant's address as shown on the notice of examination.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8560, Business and Professions Code.

HISTORY:

1. Amendments filed 3-15-79; effective thirtieth day thereafter (Register 79, No. 11).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of section heading and section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1941. Failure to Appear for Operator's or Field Representative's Examinations.

Failure of an applicant to appear for an operator's or field representative's examination after proper notification thereof shall be grounds for forfeiture of the examination fee, unless the applicant requests and is granted a postponement not less than five days prior to such examination or is excused by the board, for good cause, from complying with this requirement. An applicant who receives a postponement of not more than six (6) months will not be required to file a new application.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8560, Business and Professions Code.

HISTORY:

1. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
2. Amendment of section heading, section and Note filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1942. Applicant Failing Operator's or Field Representative's Examination.

An applicant who fails the operator's or field representative's examination may take another examination within six (6) months thereafter on the same application by paying an additional examination fee.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8560, Business and Professions Code.

HISTORY:

1. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
2. Amendment of section heading, section and Note filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1943. Unauthorized Assistance During Examination.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1944. Grades.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8520 and 8560, Business and Professions Code.

HISTORY:

1. Amendment filed 9-18-75; effective thirtieth day thereafter (Register 75, No. 38).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Repealer filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).

§1945. Posting Names of Successful Applicants.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1946. Notice of Renewals.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1947. Time of Filing Application for Renewal--Paying Fee.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1948. Fees.

(a) Pursuant to the provisions of section 8674 of the code, the following fees are established:

(1) Duplicate license	\$ 2
(2) Change of licensee name	\$ 2
(3) Operator's examination	\$ 25
(4) Operator's license.	\$150
(5) Renewal operator's license	\$150
(6) Company office registration.	\$120
(7) Branch office registration	\$ 60
(8) Field representative's examination	\$ 10
(9) Field representative's license	\$ 30
(10) Renewal field representative's license	\$ 30

(11) Change of registered company's name	\$ 25
(12) Change of principal office address	\$ 25
(13) Change of branch office address	\$ 25
(14) Change of qualifying manager	\$ 25
(15) Change of registered company's officers	\$ 25
(16) Change of bond or insurance	\$ 25
(17) Continuing education provider	\$ 50
(18) Continuing education course approval	\$ 25
(19) Pesticides use report filing	\$ 6

(b) Pursuant to section 8564.5 of the code, the fee for examination for licensure as an applicator is \$15.00 for each branch in which an examination is taken.

(c) Pursuant to section 8593 of the code, the fee for the continuing education examination for operators is \$25.00, for each branch in which an examination is taken.

(d) Pursuant to section 8593 of the code, the fee for the continuing education examination for field representatives is \$10.00, for each branch in which an examination is taken.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8564.5, 8593 and 8674, Business and Professions Code.

HISTORY:

1. New section filed 6-28-60; effective thirtieth day thereafter (Register 60, No. 15).
2. Amendment of subsection (b) filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).
3. Amendment filed 5-2-83; effective thirtieth day thereafter (Register 83, No. 19).
4. Amendment of NOTE filed 9-29-83; effective thirtieth day thereafter (Register 83, No. 39).
5. New subsections (c) and (d) filed 4-12-84; effective thirtieth day thereafter (Register 84, No. 15).
6. Amendment of subsection (a) filed 11-10-86; effective thirtieth day thereafter (Register 86, No. 46).
7. Amendment filed 3-24-87; effective thirtieth day thereafter (Register 87, No. 13).
8. Amendment filed 9-19-88; operative 10-19-88 (Register 88, No. 39).
9. Amendment filed 9-19-90; operative 10-19-90 (Register 90, No. 44).
10. Amendment of subsections (a)(5), (a)(10) and (b) filed 5-18-92; operative 6-17-92 (Register 92, No. 21).
11. Editorial correction of printing error in subsections (a)(14) and (a)(19) (Register 92, No. 21).
12. Amendment of subsection (b) filed 5-17-95; operative 6-16-95 (Register 95, No. 20).
13. Amendment of subsection (b) filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

Article 3.5. Continuing Education

§1950. Continuing Education Requirements.

a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

(b) Each licensee is required to gain a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(c) Operators licensed in one branch of pest control shall gain 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control shall gain 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control shall gain 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be gained for each branch license and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be gained for each branch of pest control licensed and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(e) Operators who hold a field representative's license in a branch of pest control in which they do not hold an operator's license must gain four of the continuing education hours required by section 1950(c) in a technical subject directly related to the branch or branches of pest control in which the field representative's license is held, in order to keep the field representative's license active.

(f) No course, including complete operator's courses developed pursuant to section 8565.5, may be taken more than once during a renewal period for continuing education hours.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8560 and 8593, Business and Professions Code.

HISTORY:

1. Amendment filed 6-13-91; operative 7-13-91 (Register 91, No. 41).

2. Amendment filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
3. Amendment of subsections (c) and (d) filed 8-12-96; operative 9-11-96 (Register 96, No. 33).
4. Change without regulatory effect amending subsections (c) and (d) filed 4-6-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 14).
5. Change without regulatory effect amending subsections (c)-(e) filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).

§1950.5. Hour Value System.

The following hour values shall be assigned to the educational activities approved by the Board. All educational activities must be submitted to the Board for approval before presentation for continuing education credit, in accordance with section 1953. Each activity approved for technical or rules and regulations continuing education hours must include a written examination to be administered at the end of the course. Examinations administered at the end of the course must consist of ten questions per one hour of instruction, with 40 questions minimum for any activity of instruction of four hours or more. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.

(a) Accredited college courses - 10 hours for each 2 semester-unit course; 16 hours for each 3 semester-unit course.

(b) Adult education courses - 6 hours

(c) Professional seminars or meetings - up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.

(d) Technical seminars or meetings - up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.

(e) Operators' courses approved by the Board pursuant to section 8565.5 of the code - 1 hour per hour of instruction.

(f) Correspondence courses developed by the Board pursuant to section 8565.5 of the code - full credit per branch.

(g) Correspondence courses approved by the Board - hours will be assigned depending on the complexity of the course and its relevance to new developments in the field of pest control.

(h) Association meetings - 1 hour for every hour of instruction up to a maximum of 4 hours per meeting.

(i) Structural Pest Control Board meetings - 1 general hour and 1 rule and regulation hour per meeting, up to a maximum of 4 hours per renewal period (excluding Board Members.) This activity is exempt from examination requirements pursuant to this section.

(j) Structural Pest Control Board Committee meetings - 1 hour per meeting, up to a maximum of 2 hours per renewal period (excluding Board Members).

(k) In-house training in technical subjects - 1 hour per hour of instruction.

(l) Board approved Rules and Regulations courses - 1 hour for every hour of instruction.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8593, Business and Professions Code.

HISTORY:

1. Amendment filed 6-13-91; operative 7-13-91 (Register 91, No. 41).
2. Amendment of subsections (c), (d), (g), (h) and (l) and new subsection (m) filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
3. Amendment of subsections (d) and (h) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
4. Amendment of subsections (d) and (m) filed 3-13-96; operative 4-12-96 (Register 96, No. 11).
5. Change without regulatory effect amending subsections (c), (d), (g) and (h) filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).
6. Amendment filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).

§1951. Examination in Lieu of Continuing Education.

In lieu of continuing education, a licensee may qualify for renewal by taking and passing an examination designed by the Board to cover developments in the field of pest control. Licensees who choose this method of qualifying for renewal may take this examination only once, and must take the examination no earlier than one year prior to their license expiration date. A score of 70% or higher shall be considered a passing grade on this examination.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8560(c) and 8593, Business and Professions Code.

HISTORY:

1. Amendment of section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).
2. Amendment filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).

§1952. Inactive Licenses.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8690.5, Business and Professions Code.

HISTORY:

1. Repealer filed 5-21-85; designated effective 7-1-86 (Register 85, No. 21).
2. Editorial correction removing repealed text (Register 86, No. 46).

§1953. Approval of Activities.

(a) Providers of activities of continuing education in pest control shall request approval as a provider and of activities on forms provided by the Board (See Form 43M-18 (Rev. 6/02) at the end of this section) accompanied by the required fees. Requests for approval of activities must be submitted to the Board no later than 60 days prior to presentation of the activity unless exception is granted by the Registrar.

(b) All providers must notify the Board 30 days prior to the presentation of any board approved activity, unless exception is granted by the Registrar.

(c) All providers must submit a course attendance roster (See Form No. 43M-46(New 3/93) at the end of this section) to the Structural Pest Control Board within five working days after every course instructed.

(d) After giving the provider a written notice and an opportunity to respond, the Board may withdraw approval of any activity, when good cause exists. Good cause shall include, but not be limited to, failure actually to meet the standards for approval of activities which are outlined in subsection (f) of this section.

(e) Unless otherwise indicated on the written notification of approval, or unless an approval is withdrawn by the Board at an earlier date, approval of each activity shall remain in effect for 3 years.

(f) In order to be approved, activities must be:

- (1) Directly related to the field of structural pest control;
- (2) Provided by an institution, association, university, or other entity assuming full responsibility over the course program;
- (3) Composed of a formal program of learning which requires:
 - (A) attendance and participation,
 - (B) at least one hour of instruction,
 - (C) a syllabus (detailed outline of the main points of the curriculum),
 - (D) an evaluation method on Form No. 43M-39 (Rev. 10/03), costs of postage which shall be incurred by the provider (which is printed at the end of this section),
 - (E) a certificate of completion on Form No. 43M-38 (NEW 5/87) (which is printed at the end of this section); and,
- (4) Conducted by an instructor who has qualified by meeting two of the following experience requirements:
 - (A) Completion of training in the subject of the activity,
 - (B) Six months' experience working in the area covered by the activity within the preceding three years,
 - (C) Experience teaching an activity of similar content within the preceding five years,
 - (D) Completion of any post-secondary studies related to the subject matter of the activity,
 - (E) Author of the activity being reviewed, or a credentialed instructor.
- (g) No activity which focuses on the policies or procedures of a single firm shall be approved.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8593, Business and Professions Code.

HISTORY:

1. Amendment of subsection (d)(4)(D) filed 11-10-86; effective thirtieth day thereafter (Register 86, No. 46).
2. Amendment of subsection (a) filed 3-24-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
3. Amendment filed 6-13-91; operative 7-13-91 (Register 91, No. 41).
4. New subsection (c), subsection redesignation and amendment of subsections (d) and (f)(3) filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
5. Change without regulatory effect amending subsection (f)(3) filed 5-2-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 18).

6. Editorial correction adding form 43M-46, inadvertently omitted from Register 94, No. 19 (Register 2004, No. 29).
7. Amendment of subsection (a) and form 43M-18 filed 7-13-2004; operative 8-12-2004 (Register 2004, No. 29).
8. Amendment of subsection (f)(3), new subsections (f)(3)(A)-(E), amendment of subsections (f)(4)(C) and (g) and repealer and new Form 43M-39 filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).

Article 4. Fumigation and Pesticide Use

§1970. Standards and Record Requirements.

For the purpose of maintaining proper standards of safety and the establishment of responsibility in handling the dangerous gases used in fumigation and the pesticides used in other pest control operations, a registered company shall compile and retain for a period of at least three years, a log for each fumigation job and for each pesticide control operation in which a pesticide is used by the registered company or the registered company's employee.

(a) The log (See Form 43M-47 (Rev. 5/03) at the end of this section) for each fumigation job shall contain the following information:

Name, address and company registration certificate number of prime contractor.

Name, address and company registration certificate number of subcontractor, if any.

Address of property.

Date of fumigation.

Name and address of owner or his or her agent.

Date and hour fire department was notified pursuant to Business and Professions Code section 8505.5.

Date and hour county agricultural commissioner was notified and method of notification, where required.

Property description including type of structure as to details of roofing, walls, and the presence of construction elements, conduits, drains, or vacuum systems that could allow the passage of fumigant from the structure to be fumigated to any adjacent or adjoining structure(s), thereby connecting them, and method(s) used to prevent passage of the fumigant.

Cubic feet fumigated.

Target pest(s).

Kind of fumigant(s) used.

United States Environmental Protection Agency registration number(s) of fumigant(s).

Name of warning agent and amount used.

Type of sealing method used.

Weather conditions as to temperature and wind.

Date and hour fumigant introduced.

Cylinder number of each fumigant used.

Weight of each fumigant cylinder before introduction of gas.

Pounds of fumigant used from each cylinder.

Total pounds of fumigant used.

List of any extraordinary safety precautions taken.

Name, signature and license number of operator or field representative releasing fumigant.

First name and surname of crew when fumigant was released, when aeration commenced and when the property was released for occupancy.

Indication of whether or not safety equipment was available at the fumigation site at the time the fumigant was introduced, when ventilation commenced and when the property was released for occupancy.

Date and hour aeration commenced.
 Conditions of tarp and seal.
 Name, signature and license number of operator or field representative commencing ventilation.
 Type of device(s) used to test for re-entry.
 Date and hour ready for occupancy.
 Name, signature and license number of operator or field representative releasing property for occupancy.
 Method used to calculate amount of fumigant used.
 Factors used in calculation of fumigant.
 Special notes or comments pertinent to fumigation.
 (b) The report for each pest control operation, other than fumigation, in which a pesticide is used shall contain the following information:
 Date of treatment.
 Name of owner or his or her agent.
 Address of property.
 Description of area treated.
 Target pest(s).
 Pesticide and amount used.
 Identity of person or persons who applied the pesticide.
 (c) The term "fraudulent act" as used in Section 8642 includes but is not limited to the falsification of any records pertaining to fumigation jobs or other pest control operations in which a pesticide other than a fumigant is used.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.5, 8505.7, 8505.13, 8505.15, 8505.16, 8516, 8642, 8646 and 8652, Business and Professions Code.

HISTORY:

1. Amendment filed 9-29-78 as an emergency; effective upon filing (Register 78, No. 39). For prior history, see Register 68, No. 1.
2. Amendment filed 9-29-78; effective thirtieth day thereafter (Register 78, No. 52).
3. Certificate of Compliance filed 1-23-79 (Register 79, No. 4).
4. Editorial correction (Register 79, No. 43).
5. Amendment of NOTE filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
6. Amendment filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
7. Amendment of first paragraph and subsections (a) and (b), amendment of Note, and new form 43M-47 filed 4-28-98; operative 5-28-98 (Register 98, No. 18).
8. Amendment of subsection (a) filed 10-23-2001; operative 11-22-2001 (Register 2001, No. 43).
9. Amendment of subsection (a) and form 43M-47 filed 7-13-2004; operative 8-12-2004 (Register 2004, No. 29).

§1970.1. Enclosed Spaces.

(a) As used in Section 8505.1 of the code, the term “enclosed space” shall include but shall not be limited to any of the following:

- (1) Vault or chamber
- (2) Tarpaulin covering
- (3) Paper and tape seal
- (4) Combination paper and tape and tarpaulin
- (5) Van, boxcar, ship, plane or other vehicle

(b) For purposes of subsection (a), “tarpaulin” means a protective covering which is capable of retaining a fumigant for the period of time required by the label for such fumigant.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.1 and 8505.7, Business and Professions Code.

HISTORY:

1. New Sections 1970.1, 1970.2, and 1970.3 filed 9-18-75; effective thirtieth day thereafter (Register 75, No. 38).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1970.2. Fumigation Effectiveness.

HISTORY:

1. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1970.3. Securing Against Entry.

As used in Section 8505.7 of the code, the phrase “locked, barricaded, or otherwise secured against entry” shall mean that all structures, prior to fumigation, shall have a secondary lock on all outside doors. A secondary lock means a device or barricade that will secure and prevent a door from being opened by anyone other than the licensee in charge of the fumigation. Examples of approved devices are clamshell locks, padlocks, keyway locks, pins or any other device, including inside deadbolts.

(a) Pins shall be of a thickness to prevent the insertion of the door key.

(b) Staples cannot be used in keyways as a secondary lock under any circumstances.

(c) An exterior doorway on a garage or an uninhabited structure which does not have a door shall have impassable barricades erected thereon prior to fumigation if it provides a path of access for persons to enter into a building which is inhabited by human beings or shows evidence of human habitation. This provision shall apply to side doorways on otherwise enclosed garages if the garage is being used for storage of personal property, or is part of inhabited property.

A garage without a car door or where the car door is missing shall be considered a carport and need not be barricaded unless there is evidence that the garage area is being used for habitation.

A barricade is considered to be plywood with a thickness of one-fourth inch or a material of equal or greater strength.

NOTE: Authority cited: Sections 8520 and 8525, Business and Professions Code.
Reference: Sections 8505.4 and 8505.7, Business and Professions Code.

HISTORY:

1. Repealer and new section filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment filed 1-26-82; effective thirtieth day thereafter (Register 82, No. 5).
3. Editorial correction (Register 82, No. 16).
4. Amendment of NOTE filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
5. Amendment and new subsections (a)-(d) filed 1-13-93; operative 2-12-93 (Register 93, No. 3).
6. Amendment of first paragraph, repealer of subsection (a) and subsection relettering, and amendment of newly designated subsection (a) and last paragraph filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1970.4. Pesticide Disclosure Requirement.

(a) The primary contractor for fumigation shall have in his or her possession and shall provide to any subcontractor for fumigation a form (See Form 43M-48 (New 5/96) at the end of this section) signed by the occupants or designated agent of a structure. The primary contractor for fumigation and the subcontractor for fumigation shall retain a copy of the occupants fumigation notice for a period of at least three years. In case of multiple-family dwellings, the owner, manager or designated agent of the building may obtain signatures and/or verify the notification of the occupants.

The form shall state the name of the pest to be controlled, the pesticide(s)/fumigant(s) proposed to be used, the active ingredient(s) and the health cautionary statement as required under section 8538 of the code. The form shall also state that a lethal gas (poison) will be used in the building on indicated dates and that it is unsafe to return to the building until a certification notice for reentry is posted by the licensed fumigator. The form shall also indicate that the occupant has received the prime contractor's information regarding the procedures for leaving the structure.

The properly signed form or a copy thereof shall be in the possession of the licensed fumigator when the fumigant is released. Such form shall be attached to and become a permanent part of the fumigation log upon completion of the fumigation.

(b) Any death or serious injury relating to pesticide application or use, whether to a worker or member of the public, shall be reported to the nearest Structural Pest Control Board office immediately.

(c) Whenever a licensee employed by a branch 2 or branch 3 registered company applies a pesticide within, around or to any structure such person shall leave in a conspicuous location a written notice identifying the common, generic or chemical name of each pesticide applied. In case of a multiple family structure, such notice may be given to the designated agent or the owner. Such pesticide identification notice may be a door hanger, invoice, billing statement or other similar written document which contains the registered company's name, address, and telephone number.

(d) All pest control operators, field representatives, applicators and employees in all branches shall comply in every respect with the requirements of section 8538 of the code.

Failure to comply with section 8538 of the code is a misdemeanor and shall constitute grounds for discipline.

(e) Where notification is required under section 8538 of the code, and the premises on which the work is to be performed is a multiple family dwelling consisting of more than 4 units, the owner/owner's agent shall receive notification and other notices shall be posted in heavily frequented, highly visible areas including, but not limited to, all mailboxes, manager's apartment, in all laundry rooms, and community rooms on all external pest control servicing. Complexes with fewer than 5 units will have each affected unit notified. Any pest control servicing done within a tenant's apartment requires that the tenant be notified according to section 8538 of the code.

(f) A registered company which applies any pesticide within, around or to any structure shall provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied.

NOTE

Authority cited: Section 8525, Business and Professions Code. Reference: Section 8505.7, 8505.13 and 8538, Business and Professions Code.

HISTORY:

1. New section filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).
3. Amendment of subsection (a) filed 6-3-81; effective thirtieth day thereafter (Register 81, No. 23).
4. Relettering of former subsection (d) to (e) and new subsection (d) filed 6-17-85; effective thirtieth day thereafter (Register 85, No. 25).
5. Relettering of former subsection (e) to (f) and new subsection (e) filed 11-10-86; effective thirtieth day thereafter (Register 86, No. 46).
6. Amendment filed 3-23-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 13).
7. Amendment of subsections (a), (d) and (e) filed 4-12-90; operative 5-12-90 (Register 90, No. 17).
8. Amendment of subsections (a), (c) and Note filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
9. Amendment of subsections (a), (c) and (d), amendment of Note, and new form 43M-48 filed 4-28-98; operative 5-28-98 (Register 98, No. 18).
10. Change without regulatory effect amending subsections (c) and (f) filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).

§1970.5. Commencing Aeration.

"The time ventilation is commenced" as used in section 8505.3 of the Code means the period of time beginning when the seal is broken and ending when all seals/tarps are removed. A licensed Branch 1 operator or field representative is required to be present during this entire period of time.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8505.3, Business and Professions Code.

HISTORY:

1. New section filed 4-12-90; operative 5-12-90 (Register 90, No. 17).
2. Amendment of section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1970.6. Fumigation of Connecting Structures.

(a) Prior to the process of fumigation, all single units and rooms within the entire structure shall be vacated.

(b) When recommending a fumigation, the prime contractor for fumigation shall:

(1) inquire of the owner or designated agent about the presence of any construction elements, conduits, drains, or vacuum systems that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure(s), thereby connecting them;

(2) inspect the structure to be fumigated and all other adjacent or adjoining structures on the property to determine if there are construction elements, conduits, drains, or vacuum systems present that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure(s). When such conditions exist the prime contractor for fumigation shall notify in writing the licensee in charge of the fumigation of the conditions which could allow passage of the fumigant to adjacent or adjoining structures.

(c) Prior to introduction of the fumigant, the licensee in charge of the fumigation shall:

(1) conduct a thorough search for construction elements, conduits, drains, or vacuum systems that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure on the property;

(2) document his or her inspection findings on the fumigation log, identifying the type and location of the construction element(s), conduit(s), drain(s), or vacuum system(s) between connected structures and the methods used to prevent passage of the fumigant.

(d) Any adjacent or adjoining structure which is deemed connected to the structure to be fumigated must be vacated during the process of fumigation, unless it is separated from the structure to be fumigated by methods which prevent passage of the fumigant from entering the connected structure(s). When it is necessary to vacate any connected, adjacent or adjoining structure, that structure shall be considered as a fumigated structure, and all applicable rules, regulations and label instructions apply.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8505.7, Business and Professions Code.

HISTORY:

1. New section filed 8-12-96; operative 9-11-96 (Register 96, No. 33).
2. Amendment filed 10-23-2001; operative 11-22-2001 (Register 2001, No. 43).

§1971. Fumigation Safety Kit and Other Equipment.

(a) All fumigation crews shall be provided with and shall have in their possession on the job:

(1) A fumigation safety kit, in proper condition for use, containing at least the following:

(A) Statements of instructions published by the manufacturer of the fumigants being used.

(B) Two or more effective gas masks or other safety equipment approved by the National Institute of Occupational Safety and Health, for protection against the type of fumigant being used.

- (C) A chart of instructions for artificial resuscitation.
- (2) Proper testing equipment as required by the manufacturer's label instructions and all applicable laws and regulations.
- (b) The crew shall be instructed in the use and care of kit and safety equipment and in first aid methods.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.4, 8505.8, 8505.15 and 8505.16, Business and Professions Code.

HISTORY:

1. Amendment filed 11-18-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Amendment of subsection (a) filed 9-18-75; effective thirtieth day thereafter (Register 75, No. 38).
3. Amendment filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
4. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
5. Repealer of subsection (a)(1)(A), subsection relettering, and amendment of newly designated subsection (a)(C)(2) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§1972. Warning Gases and Extraordinary Precautions.

HISTORY:

1. New section filed 11-18-57; effective thirtieth day thereafter (Register 57, No. 20).
2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1973. Re-Entry Requirements.

Following a fumigation, the licensee must personally:

- (a) Perform proper testing after aeration using testing equipment for clearing the structure as required by the manufacturer's label instructions and all applicable laws and regulations.
- (b) Release the property for occupancy by posting a Notice of Re-Entry (See Form 43M-42 (Rev. 8/92) at the end of this section). The form must be no smaller than 8 1/2" x 11" and be printed in black lettering on a white background.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.3 and 8505.7, Business and Professions Code.

HISTORY:

1. New section filed 12-18-92; operative 1-19-93 (Register 92, No. 51).
2. Amendment of section heading and section filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1974. Fumigation Warning Signs.

Prior to commencement of fumigation, warning signs which comply with the provisions of sections 8505.9 and 8505.10 (see Form 43M-15 (New 8/93)) shall be posted. Such warning signs shall be at least 11" x 15".

- (a) Prior to sealing a structure which is to be fumigated, fumigation warning signs shall be posted on the structure at or near all entrances and on each side of the structure and kept at those locations until the structure is declared to be safe for re-occupancy by the licensee exercising direct and personal supervision over the fumigation.

(b) Fumigation warning signs shall also be placed on the outside surface of the tarps used to seal the structure and shall be clearly visible on all accessible sides of the space under fumigation and from any direction from which the site may be approached.

Additional fumigation warnings signs shall be posted at all joint seams of the tarp at the first floor level.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.4, 8505.6, 8505.9 and 8505.10, Business and Professions Code.

HISTORY:

1. New section filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1980. Sodium Fluoroacetate--Compound 1080.

NOTE: Authority cited: Sections 8525 and 8643, Business and Professions Code.

Reference: Sections 8643 and 8647, Business and Professions Code.

HISTORY:

1. Amendment filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).

2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1981. Rodenticides and Avicides.

NOTE: Authority cited: Sections 8520, 8525 and 8643, Business and Professions Code.

Reference: Sections 8643 and 8647, Business and Professions Code.

HISTORY:

1. Amendment filed 7-5-80; effective thirtieth day thereafter (Register 80, No. 27).

2. Amendment of subsection (e) filed 6-3-81; effective thirtieth day thereafter (Register 81, No. 23).

3. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1982. Insecticides.

NOTE: Authority cited: Sections 8525 and 8643, Business and Professions Code.

Reference: Sections 8643 and 8647, Business and Professions Code.

HISTORY:

1. Amendment filed 7-5-80; effective thirtieth day thereafter (Register 80, No. 27).

2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1983. Handling, Use, and Storage of Pesticides.

(a) Each container in which any pesticide is stored, carried or transported shall be adequately labeled in accordance with the provisions of Articles 1 and 5, Chapter 2, Division 7 of the Food and Agriculture Code (relating to economic poisons) and regulations adopted by the Department of Pesticide Regulation thereunder.

(b) Service kits which contain any pesticide or preparation thereof shall be handled with extreme caution and in no case shall such a kit be left where children or other unauthorized persons might remove the contents.

(c) When any pesticide or preparation thereof is carried on a truck or other vehicle, a suitable storage space shall be provided thereon. Under no circumstances shall such storage be left either unlocked or unattended when containing any pesticide or preparation thereof.

(d) Where there is danger of food or drug contamination, all food or drug commodities and all utensils or equipment used in the preparation of food or drugs shall be adequately covered to insure against contamination by pesticidal materials, unless the contamination will be dissipated or otherwise removed prior to the time the food or drugs are consumed or the utensils or equipment used.

(e) No rodenticide or avicide shall be used in such manner as to be readily accessible to children or pets.

(f) All rodenticides and avicides shall be removed from readily accessible places upon termination of the particular service.

(g) Under no circumstances shall oil base insecticidal materials be used in or near open flames or active heaters.

(h) Tracking powders shall be used only at floor level or in such places as warrant their safe use.

(i) When a covered or uncovered bait station is used for any pesticide the bait station shall be adequately marked with the signal word or symbols required on the original pesticide label, the generic name of the pesticide, and the name, address and telephone number of the structural pest control company. A building which is vacated, posted, locked and in the care, custody and control of the registered company shall be considered the bait station.

(j) When a termite baiting system contract is terminated, any toxicant used to modify, control, change or eliminate the behavior and existence of termites, excluding liquid termiticides, shall be removed from the property.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8643 and 8647, Business and Professions Code.

HISTORY:

1. Amendment filed 7-5-80; effective thirtieth day thereafter (Register 80, No. 27).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of subsections (h) and (i) and repealer of subsection (j) filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
4. Amendment of subsections (a) and (b) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
5. New subsection (j) filed 7-13-2004; operative 8-12-2004 (Register 2004, No. 29).

Article 5. Wood Destroying Organisms

§1990. Report Requirements Under Section 8516(b) 1-9, Inclusive.

(a) All reports shall be completed as prescribed by the board. Copies filed with the board shall be clear and legible. All reports must supply the information required by Section 8516 of the Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of the Code, and shall contain or describe the following:

- (1) Structural pest control license number of the person making the inspection.
- (2) Signature of the Branch 3 licensee who made the inspection.
- (3) Infestations, infections or evidence thereof.
- (4) Wood members found to be damaged by wood destroying pests or organisms.

(b) Conditions usually deemed likely to lead to infestation or infection include, but are not limited to:

(1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even with or below the adjacent earth. The existing earth level shall be considered grade.

(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches clear space between the bottom of the floor joists and the unimproved ground area.

(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

(4) Earth-wood contacts.

(5) Commonly controllable moisture conditions which would foster the growth of a fungus infection materially damaging to woodwork.

(c) When an infestation of carpenter ants or carpenter bees is found in a structure, control measures may be applied by companies holding a Branch 2 or Branch 3 registration certificate. If a Branch 3 licensee discovers an infestation or evidence of carpenter ant or carpenter bee infestation while performing an inspection pursuant to section 8516 of the code, he or she shall report his or her findings and make recommendations for controlling the infestation.

(d) Even though the licensee may consider the following areas inaccessible for purposes of inspection, the licensee must state specifically which of these areas or any other areas were not inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath coverings, areas where storage conditions or locks make inspection impracticable.

(e) Information regarding all accessible areas of the structure including but not limited to the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of a structure normally subject to attack by wood-destroying pests or organisms.

(f) The following language shall appear just prior to the first finding/recommendation on each separated report:

“This is a separated report which is defined as Section I/Section II conditions evident on the date of the inspection. Section I contains items where there is visible evidence of active infestation, infection or conditions that have resulted in or from infestation or infection. Section II items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete the inspection and cannot be defined as Section I or Section II.”

(g) Information must be reported regarding any wooden deck, wooden stairs or wooden landing in exterior exposure attached to or touching the structure being inspected. Portions of such structure that are not available for visual inspection must be designated as inaccessible.

NOTE: Authority cited: Sections 8525 and 8538(c), Business and Professions Code.

Reference: Sections 8516 and 8538, Business and Professions Code.

HISTORY:

1. Amendment of subsections (h), (i), (j) and new subsection (k) filed 12-27-73; designated effective 3-1-74 (Register 73, No. 52). For prior history, see Register 64, No. 11.
2. Amendment filed 5-22-75; effective thirtieth day thereafter (Register 75, No. 21).
3. Amendment filed 5-19-78; effective thirtieth day thereafter (Register 78, No. 20).
4. Amendment of subsection (k) filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).
5. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
6. Amendment of subsection (a) filed 6-17-85; effective thirtieth day thereafter (Register 85, No. 25).
7. Amendment of subsections (a) and (a)(4), new subsection (c) and subsection relettering, and new subsection (f) filed 3-13-96; operative 4-12-96 (Register 96, No. 11).
8. Change without regulatory effect amending subsection (c) filed 5-20-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 21).
9. New subsection (g) filed 4-28-98; operative 5-28-98 (Register 98, No. 18).

§1990.1. Report Requirements Under Section 8516.1(b) and (c) (1)-(8) inclusive.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference:

Sections 8510, 8516.1, 8538 and 8560, Business and Professions Code.

HISTORY:

1. New section filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
2. Change without regulatory effect repealing section filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).

§1991. Report Requirements Under Section 8516(b)10.

(a) Recommendations for corrective measures for the conditions found shall be made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:

(1) Comply with the provisions of section 2516(c)(1) of Title 24 of the California Code of Regulations.

(2) Remove from the subarea all excessive cellulose debris in earth contact. This excludes shavings or other cellulose too small to be raked or stored goods not in earth contact. Stumps and wood imbedded in footings in earth contact shall be treated if removal is impractical.

(3) When evidence of moisture, infestations or infections exists as a result of faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct the condition. Any method of controlling infestations arising from these conditions is considered adequate if the infestation is controlled.

(4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California Code of Regulations (Effective July 1992).

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California Code of Regulations.

(7) Comply with the provisions of section 2516(c)(4) of Title 24 of the California Code of Regulations.

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,

2. removing the infested wood,

3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the

limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

(9) For the extermination of subterranean termite infestations, treat an infested area under the structure when subterranean termite tubes are found connected to the ground or when active infestations are found in the ground. Subterranean termite tubes shall be removed where accessible.

(10) Comply with the provisions of section 2516(c)(2) of Title 24 of the California Code of Regulations.

(11) Correct any excessive moisture condition that is commonly controllable. When there is reasonable evidence to believe a fungus infection exists in a concealed wall or area, recommendations shall be made to open the wall or area.

(12) Repair a stall shower if it is found to leak when water tested for a minimum of fifteen (15) minutes after the shower drain has been plugged and the base filled to within one (1) inch of the top of the shower dam. Stall showers with no dam or less than two (2) inches to the top of the dam are to be water tested by running water on the unplugged shower base for a minimum of five (5) minutes. Showers over finished ceilings must be inspected but need not be water tested. If water stains are evident on the ceiling, recommendations shall be made for further inspection and testing.

(13) Restore any members of wooden decks, wooden stairs or wooden landings in exterior exposure to a condition where they are able to carry out their intended function. Recommendations for corrective measures will depend upon the extent of adverse exposure and existing degree of deterioration and may include any of the following:

(A) Refasten any wood members which are considered structurally functional but have become loose because of wood deterioration.

(B) Remove and/or replace structurally weakened portions of any wood member.

(C) Remove and replace all wood members if full function and safety cannot be restored by partial replacement and repair as in (B) above, remove and replace entire wood member.

(b) Preconstruction application of termiticide for protection from subterranean termites shall not be made at less than the manufacturer's label specifications.

(c) If in the opinion of the inspector a building permit is required, it must be noted on the wood destroying pests and organisms inspection report (Form No. 43M-41 as specified in section 1996 of the California Code of Regulations).

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY:

1. Amendment filed 9-16-59; effective thirtieth day thereafter (Register 59, No. 16).

2. Amendment filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).

3. Amendment of subsections (a)(3), (9) and new (b) filed 1-2-68; effective thirtieth day thereafter (Register 68, No. 1).

4. Amendment filed 12-27-73; designated effective 3-1-74 (Register 73, No. 52).

5. Amendment of subsection (a) filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).

6. Amendment filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).

7. Editorial correction of subsection (a)(12)(Register 80, No. 36).
8. Amendment of subsection (a)(12) filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
9. Amendment of subsection (a)(8) filed 2-13-87; effective thirtieth day thereafter (Register 87, No. 8).
10. Amendment of subsections (a) and (a)(9) and repealer and adoption of subsections (a)(1), (a)(4), (a)(6), (a)(7), and (a)(10) filed 11-15-91; operative 12-16-91 (Register 92, No. 8).
11. Repealer of subsection (a)(8) and new subsections (a)(8)(A)-(C) filed 3-30-92; operative 4-29-92 (Register 92, No. 15).
12. Amendment of subsections (a)(2) and (a)(8), repealer of subsection (b) and new subsection (b) filed 3-13-96; operative 4-12-96 (Register 96, No. 11).
13. Amendment of subsection (a)(5) filed 4-3-96; operative 5-3-96 (Register 96, No. 14).
14. New subsections (a)(13)-(a)(13)(C) and (c) filed 4-28-98; operative 5-28-98 (Register 98, No. 18).
15. Change without regulatory effect amending section heading and subsection (a) filed 5-15-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 20).
16. Amendment of subsection (a)(8)(C)3. filed 6-26-2003; operative 7-26-2003 (Register 2003, No. 26).

§1991.1. Report Requirements Under Section 8516.1(c)(8).

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8510 and 8516.1, Business and Professions Code.

HISTORY:

1. New section filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
2. Change without regulatory effect repealing section filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).

§1992. Secondary Recommendations.

In addition to the recommendations required in section 1991, the report may suggest secondary recommendations. When secondary recommendations are made, they shall be labeled as secondary recommendations and included as part of the inspection report with a full explanation of why they are made, with the notation that they are below standard measures. If secondary recommendations are performed, any letter of completion, billing or other document referring to the work completed, must state specifically which recommendations were secondary and below standard and specify the name of the person or agency requesting completion of the secondary recommendations.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY:

1. New sections filed 9-16-59; effective thirtieth day thereafter (Register 59, No. 16).
2. Amendment filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
3. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Amendment filed 9-20-90; operative 10-20-90 (Register 90, No. 44).

5. Amendment filed 12-7-92; operative 1-19-93 (Register 92, No. 51).

§1993. Inspection Reports.

All of the following reports must be in compliance with the requirements of Section 8516 of the code. All reports must be on the form prescribed by the board and filed with the board with stamps affixed.

(a) An original inspection report is the report of the first inspection conducted on a structure at the request of a specified party or for a specified purpose. Subsequent inspections conducted on a structure at the request of a different party, for a different purpose than a previous inspection, or a different transaction relating to the same structure shall be deemed to be new inspections for which an original inspection report shall be required. An original inspection report may be either a complete or limited inspection.

(b) A complete report is the report of an inspection of all visible and accessible portions of a structure.

(c) A limited report is the report on only part of a structure. Such a report shall have a diagram of the area inspected and shall specifically indicate which portions of the structure were inspected with recommendation for further inspection of the entire structure and the name of the person or agency requesting a limited report.

(d) A supplemental report is the report on the inspection performed on inaccessible areas that have been made accessible as recommended on a previous report. Such report shall indicate the absence or presence of wood-destroying pests or organisms or conditions conducive thereto. This report can also be used to correct, add, or modify information in a previous report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

(e) A reinspection report is the report on the inspections of item(s) completed as recommended on an original report or subsequent report(s). The areas reinspected can be limited to the items requested by the person ordering the original inspection report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY:

1. New section filed 9-16-59; effective thirtieth day thereafter (Register 59, No. 16).
2. Amendment filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
3. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Amendment of section heading and section filed 3-13-96; operative 4-12-96 (Register 96, No. 11).
5. Amendment of subsections (d) and (e) and new form filed 8-12-96; operative 9-11-96 (Register 96, No. 33).

§1993.1. Reinspection Language.

The following statement must appear on any wood destroying pests and organisms inspection report when an estimate or bid for making repairs is given with the original inspection report, or thereafter:

“This company will reinspect repairs done by others within four months of the original inspection. A charge, if any, can be no greater than the original inspection fee for each reinspection. The reinspection must be done within ten (10) working days of request. The reinspection is a visual inspection and if inspection of concealed areas is desired, inspection of work in progress will be necessary. Any guarantees must be received from parties performing repairs.”

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY

1. New section filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).

§1993.2. Termite Bait Station.

(a) For the purposes of this section and section 1993.3, “termite bait station” shall include:

- (1) an “above-ground bait station” which shall mean any device containing pesticide bait used for the eradication of wood destroying pests that is attached to the structure, or
- (2) an “in-ground bait station” which shall mean any device containing a material to attract and or monitor wood destroying pests, or containing a pesticide bait to eradicate wood destroying pests, that is placed in the ground.

(3) an “in-ground termite monitoring system” is a device placed in the ground to determine the presence or absence of subterranean termites through scheduled periodic inspections.

(b) Prior to installation of any termite system, a full or limited inspection of the structure shall be made.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8514, Business and Professions Code.

HISTORY:

1. New section filed 6-26-2003; operative 7-26-2003 (Register 2003, No. 26).

§1993.3. In-Ground Termite Bait Stations:

Use of in-ground termite monitoring and/or baiting systems shall be considered a control service agreement as defined by section 8516 of the code.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY:

1. New section filed 6-26-2003; operative 7-26-2003 (Register 2003, No. 26).

§1994. Limited Inspection Reports.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8516, 8516.1, Business and Professions Code.

HISTORY:

1. New section filed 9-16-59; effective thirtieth day thereafter (Register 59, No. 16).
2. Amendment filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
3. Repealer filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1995. Limitation of Report.

HISTORY:

1. New section filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
2. Repealer filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).

§1996. Requirements for Reporting All Inspections Under Section 8516(b).

(a) A written inspection report conforming to section 8516(b) of the code (See Form No. 43M-41 (Rev. 10/01, required use effective July 1, 2003) at the end of this section) shall be prepared and filed with the board regardless of whether the registered company has offered to perform the inspection without charge. The granting of permission to make an inspection shall be deemed a request to make an inspection.

(b) Reference to price may be deleted from the copy of the report filed with the board provided this is the only difference between the copy filed with the board and the copy that is delivered to the person who requested the inspection or to his or her designated agent.

(c) The failure or refusal of the person ordering the inspection or of his or her designated agent to pay for such inspection or report shall not excuse a registered company which has commenced an inspection from preparing and delivering a report and filing a copy thereof with the board.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.

HISTORY:

1. New section filed 5-19-64; designated effective 9-1-64 (Register 64, No. 11).
2. Amendment of subsection (b) filed 12-27-73; designated effective 3-1-74 (Register 73, No. 52).
3. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Amendment filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
5. Amendment of subsection (a) filed 7-13-90; operative 8-12-90 (Register 90, No. 34).
6. Amendment of subsection (a) filed 12-28-90; operative 1-27-91 (Register 91, No. 6).
7. Change without regulatory effect amending subsection (a) and form filed 9-16-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 38).
8. Change without regulatory effect amending section and Form 43M-41 filed 3-2-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 10).
9. Editorial correction of Form 43M-41 and History 8 (Register 95, No. 16).
10. Amendment of subsection (a) and Form 43M-41 filed 8-13-98; operative 9-12-98 (Register 98, No. 33).
11. Amendment of subsection (a) and repealer and new form 43M-41 filed 12-16-2002; operative 1-15-2003 (Register 2002, No. 51).

§1996.1. Inspection and Completion Tags.

(a) An inspection tag shall be posted in the attic or sub-area, or in the garage whenever an inspection for wood-destroying pests or organisms is made. The inspection tag shall be not less than 3" by 5" and shall contain the firm's name, date of inspection and the following statement: "Do not remove—Structural Pest Control Board Regulation 1996.1."

(b) If the registered company completes any work with respect to wood-destroying pests or organisms, it shall post a completion tag next to the inspection tag. The completion tag shall be not less than 3" by 5" and shall contain the firm's name, date of completion and name of any chemical used or method(s) of treatment.

(c) The inspection report shall indicate the location of the inspection tag. The inspection report must also indicate the presence of any other inspection or fumigation tag that is less than two years old and any similar completion tag. A registered company shall not remove any tag.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8516-8519 and 8644, Business and Professions Code.

HISTORY:

1. New section filed 7-17-79; designated effective 10-1-79 (Register 79, No. 29).
2. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of subsections (b) and (c) filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
4. Amendment of subsection (b) and amendment of Note filed 7-13-2004; operative 8-12-2004 (Register 2004, No. 29).

§1996.2. Standard Notice of Work Completed and Not Completed.

A written standard notice of work completed and not completed form conforming to section 8518 of the code and Form No. 43M-44 (Rev. 10/01, required use effective July 1, 2003) found at the end of this section shall be prepared and filed with the board.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8518, Business and Professions Code.

HISTORY:

1. New section and form filed 11-19-92; operative 12-21-92 (Register 92, No. 47).
2. Change without regulatory effect amending section and Form 43M-44 filed 3-2-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 10).
3. Editorial correction moving Note and History to follow Form 43M-44 (Register 95, No. 16).
4. Amendment of subsection (a) and Form 43M-44 filed 8-13-98; operative 9-12-98 (Register 98, No. 33).
5. Amendment of section and repealer and new form 43M-44 filed 12-16-2002; operative 1-15-2003 (Register 2002, No. 51).

§1996.3. Requirements for Reporting Property Addresses.

(a) The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

(b) The form shall contain the following information for each property inspected and/or upon which work was completed.

- (1) Company Name

- (2) Company registration number
- (3) Branch office registration number (when a branch office issues an inspection report or notice of work completed)
- (4) Date of Activity
- (5) Address of property inspected or upon which work was completed, including zip code
- (6) Activity Code
- (7) License number of licensee performing the inspection
- (c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more than two thousand five hundred dollars (\$2,500).

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8516 and 8518, Business and Professions Code.

HISTORY:

- 1. New section and new form 43M-52 filed 7-13-2004; operative 8-12-2004 (Register 2004, No. 29).

§1997. WDO Inspection and Completion Activity Fee.

Pursuant to the provisions of section 8674 of the Business and Professions Code, the following fee is determined, set and established:

- (1) Activity Reporting fee per Property Address \$1.50

NOTE: Authority cited: Sections 8525 and 8674, Business and Professions Code. Reference: Sections 8518 and 8674, Business and Professions Code.

HISTORY:

- 1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12). For prior history, see Register 68, No. 6.
- 2. Amendment filed 2-22-80; effective thirtieth day thereafter (Register 80, No. 8).
- 3. Amendment filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
- 4. Amendment filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
- 5. Amendment filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
- 6. Amendment filed 2-13-87; effective thirtieth day thereafter (Register 87, No. 8).
- 7. Amendment filed 9-19-88; operative 10-19-88 (Register 88, No. 39).
- 8. Amendment filed 9-19-90; operative 10-19-90 (Register 90, No. 44).
- 9. Amendment filed 7-21-92; operative 8-20-92 (Register 92, No. 30).
- 10. Amendment filed 10-15-96; operative 11-14-96 (Register 96, No. 42).
- 11. Change without regulatory effect amending section heading, section and Note filed 1-28-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 4).

§1998. Reporting Requirements Under Section 8516(h)(4).

If an inspection report is required to be filed pursuant to code section 8516(h)(4), a notice of work completed shall be filed with the Board for any work recommended and performed pursuant to such report.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8516 and 8518, Business and Professions Code.

HISTORY:

1. New section filed 10-29-70; designated effective 11-30-70 (Register 70, No. 44).
2. New NOTE filed 9-22-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment filed 3-23-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 13).
4. Amendment of section heading, repealer of first paragraph and subsections (a)-(e), and amendment of subsection (f), including repealer of subsection (f) designator, filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§1999.1. Suspension Period for Branch 3 Licenses.

NOTE: Authority cited: Sections 8525 and 8620, Business and Professions Code.

Reference: Sections 8632 and 8652, Business and Professions Code .

HISTORY:

1. New section filed 8-1-79; effective thirtieth day thereafter (Register 79, No. 31).
2. Repealer filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

Article 6. Enforcement

§1999.5. False and Misleading Advertising.

(a) It is unlawful for any licensee, or any employee thereof, directly or indirectly to make, disseminate, represent, claim, state, or advertise, or cause to be made, disseminated, represented, claimed, stated or advertised by any manner or means whatever, any statement or representation concerning structural pest control, as defined in Business and Professions Code section 8505, which is unfair, deceptive, untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be unfair, deceptive, untrue or misleading.

(b) As used in this section, the terms “make,” “disseminate,” “represent,” “claim,” “state,” or “advertise” and any of their variants include, but are not limited to any print communications (for example, telephone directories, newspapers, magazines or other publications or books, notices, circulars, pamphlets, letters, handbills, posters, bills, signs, placards, cards, labels, tags, vehicle or equipment signage, window displays, or store signs), electronic communication (for example, radio, television, audio or video tape, telephone, or the Internet), demonstration, direct person-to-person contact, or other means or methods now or hereafter employed to bring structural pest control services, methods, products, pesticides, or devices to the attention of the public.

(c) As used in this section “the exercise of reasonable care” includes a duty to investigate the basis of any statement or representation to assure that the statement or representation is not unfair, deceptive, untrue or misleading. The making of a statement or representation without knowledge of its truthfulness breaches the duty to investigate.

(d) Violation of this section occurs at the time an unfair, deceptive, untrue or misleading statement or representation is made. Once a violation occurs, subsequent disclosures, caveats, disclaimers, or waivers cannot eliminate it.

(e) The remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws and regulations of this State.

(f) Examples of direct or indirect statements or representations which are unfair, deceptive, untrue or misleading include, but are not limited to, the following:

(1) any advertising in violation of Business and Professions Code sections 17200, and 17500;

(2) any statement or representation that misrepresents or fails to disclose an important or necessary fact about a pest control service, method, product, pesticide or device;

(3) any unfair, deceptive, untrue or misleading statement or representation about the effects of a pest control service, method, product or device;

(4) any expressed or implied statement or representation that one or a combination of pest control services, methods, products, pesticides, or devices is an alternative or substitute for, is comparable to, or is better than any other pest control service, method, product, pesticide, device, or combination thereof, if what is being compared provides different treatment coverage of a structure, including but not limited to differences in the extent that accessible and inaccessible areas can reasonably be treated, unless said differences in treatment coverage are clearly and conspicuously stated;

(5) any representation that a service, method, product, pesticide, or device, or combination thereof, that is not designed to treat all potentially infested wood in a structure, both accessible and inaccessible, will be used to treat an entire structure for target pests;

(6) any statement or representation that a pest control service, product, pesticide, or device offers a general environmental protection or benefit, or that the pest control products, pesticides, or devices the licensee uses, the applications of such products, pesticides, or devices, or any of them, are “among the least toxic chemicals known,” “relatively non-toxic,” “pollution approved,” “environmentally aware,” “environmentally sensitive,” “environmentally preferable,” “environmentally benign,” or “contains all natural ingredients”;

(7) any unfair, deceptive, untrue or misleading statement concerning the composition of a pest control service, method, product, pesticide or device;

(8) any unfair, deceptive, untrue or misleading statement concerning the effectiveness of a pest control service, method, product, pesticide or device;

(9) any unfair, deceptive, untrue or misleading statement about the value of a pest control product for purposes other than as a pesticide or pest control device;

(10) any unfair, deceptive, untrue or misleading comparison of pest control services, methods, products, pesticides or devices;

(11) any statement or representation that a pesticide or device is certified, sponsored, recommended, endorsed, or approved by any agency of the Federal Government or the State of California, including but not limited to, “tested by the Department of the Interior,” “EPA approved,” “EPA registered,” “approved by the Structural Pest Control Board,” or “recommended by the Structural Pest Control Board”;

(12) a statement which is literally true but is used in such a way as to give an unfair, deceptive, untrue or misleading impression to the consumer;

(13) claims as to the safety of a pesticide application, a pesticide or pesticide ingredients, including statements such as “safe,” “nonpoisonous,” “non-injurious,” “harmless” or “nontoxic to humans and pest” with or without such a qualifying phrase as “when used as directed”;

(14) claims that the pesticides and other substances the licensee applies, the application of such pesticides, or any other use of them are comparatively safe or free from risk or harm;

(15) claims regarding services and products for which the licensee does not have substantiation in the form of tests, analysis, research, studies, or other evidence that was conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results; and

(16) any statement or representation concerning structural pest control that is conditioned or subject to any requirement, condition, limitation, disclaimer or waiver, that is not immediately followed by a clear and conspicuous statement of said requirement, condition, limitation, disclaimer or waiver.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8648, 17200 et seq. and 17500 et seq., Business and Professions Code.
HISTORY:

1. New article 6 (section 1999.5) and section filed 10-23-2001; operative 11-22-2001 (Register 2001, No. 43).
2. Change without regulatory effect amending subsection (f)(1) filed 9-24-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 39).